

**EXHIBIT 125 to Declaration of Joel Israel**

**From:** VIBERT, Karen, Group Risk Mgmt  
**Sent:** Friday, June 11, 2004 10:08 AM  
**To:** RODGER, Irvine, CBFM Regulatory Risk <Irvine.Rodger@rbos.com>  
**Cc:** FOSTER, Stephen James, Group Risk Mgmt <Stephen.J.FOSTER@rbos.com>; WICKENS, Ian, Group Risk Mgmt <Ian.WICKENS@rbos.com>; COLE, Guy, CBFM Regulatory Risk <Guy.COLE@rbos.com>; JONES, Richard, CBFM Regulatory Risk <Richard.JONES@rbos.com>; Miles, Phil <Phil.Miles@rbs.co.uk>  
**Subject:** Commercial Bank of Syria (CBS) & Syrian Lebanese Commercial Bank

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Hi Irvine.

I think this is being taken out of context and my email may have been worded a little differently if I had understood it was being more widely circulated than my proposed comments offering some guidance to Ian and on which further discussion was held.

I will therefore now hopefully make the position a little clearer, although would just add in my own warning at this stage that I am not an expert in this area, so I am not making dogmatic statements.

I have not said or recommended that we should sever all ties with Syria. The comment Guy has highlighted in red purely relates to the immediate preceding findings outlined in that paragraph and as advised in the Federal Register; on that basis I therefore commented that it "*appeared*" the UK should not be transacting business. You will then note that my next line followed that through further with a review of the BOE lists on which CBS & subsidiary were not evidenced and therefore I stated that we needed to "*exercise care*".

The point here is *not* that we need to totally sever links with CBS & subsidiaries, as there is as yet no UK/ EU requirement in this respect - we do however need to ensure that in our dealings with CBS & its subsidiaries that in no circumstances should we use our correspondent accounts in the US to route / transfer CBS (& its subsidiaries) monies. If we do there is a risk that the US can seize deposits / freeze our accounts, & even ultimately sever that relationship due to lack of compliance adherence.

I made the point that we "*could*" be in breach of UN sanctions - again reference to FinCEN and the Federal Register - based on the US allegations as raised earlier re Iraqi funds not being transferred to the Development Fund. Although I had looked at the BOE list I do not usually get involved with sanctions so it was a point raised for further appropriate review to check if similar sanctions applied.

Another thought is the need to consider the POCA & Terrorism Act requirements as we have effectively now been put on notice that CBS *may* be harbouring terrorist funds - as such we need to ensure enhanced due diligence is undertaken of this relationship, although I assume this is already the case as Syria is listed in our High Risk Country Policy.

At this time the following are for consideration:

- (1) What are FM NY doing about this and can they confirm that they are comfortable with this relationship?
- (2) What is the GBS / MLPU senior management view of this issue? Are they comfortable to continue this business relationship by way of other non USD currencies and the ability to route the business outside of the US? I note that volume and amounts exercised here are low.
- (3) Obtaining a legal view on this issue of US extra territoriality? Perhaps you can take this forward with Jennifer Burke, Group Legal.
- (4) Can you confirm enhanced due diligence procedures are being effected?

I don't wish to throw another spanner in the works, but you may also wish to check for any relationships with **Myanmar Mayflower Bank** and **Asia Wealth Bank** where the US imposed special measures effective May 12 2004. I had a further look at BOE website in respect of sanctions against Burma and note that these 2 banks are not listed in the financial sanctions orders. The EC regulations adopted basically list certain targeted individuals related to important government functions in Burma/Myanmar (and their associates) who are subject to the financial sanctions imposed.

Hope this helps and that the situation is certainly not as damning as appeared may have been implied.

Regards.  
Karen

-----Original Message-----

**From:** RODGER, Irvine, CBFM Regulatory Risk

**Sent:** 11 June 2004 12:44

**To:** VIBERT, Karen, Group Risk Mgmt

**Cc:** COLE, Guy, CBFM Regulatory Risk; JONES, Richard, CBFM Regulatory Risk; FOSTER, Stephen James, Group Risk Mgmt; Miles, Phil

**Subject:** RE: Patriot Act: Commercial Bank of Syria

Karen

My colleague, Guy Cole, has made some perceptive comments on your detailed note on CBS.

As you can see, he is seeking clarification on a number of points. In particular, I am concerned about possible contradictory advice but do acknowledge that he may be missing something of which you are aware. However, on the face of it, the effect of your recommendation to cease transacting business completely would effectively mean that UK trading ties with Syria would effectively cease (if all UK banks were to follow suit) as CBS is the dominant bank in the Syrian market for international business. I think we need to avoid a knee-jerk reaction (to US politics) particularly as the EU (including UK) is seeking to develop trading ties with Syria. The view of GBS is that it is comfortable with its Syrian correspondents (already classified as High Risk and so subject to a great deal of due diligence) so would be very reluctant to cease all business without good reason.

I should be grateful to receive your clarifications

Thanks

PS I have copied in Phil Miles of GBS for his information

## Irvine Rodger

CBFM MLPU

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135 Bishopsgate, London, EC2M 3UR

T (020) 7334 1082

F (020) 7375 4641

E [irvine.rodger@rbos.com](mailto:irvine.rodger@rbos.com)>

-----Original Message-----

**From:** COLE, Guy, CBFM Regulatory Risk

**Sent:** 11 June 2004 10:26

**To:** RODGER, Irvine, CBFM Regulatory Risk; GREENFIELD, Katie, CBFM Regulatory Risk; JONES, Richard, CBFM Regulatory Risk; SIMS, Claire, CBFM Regulatory Risk

**Subject:** RE: Patriot Act: Commercial Bank of Syria

Irvine

I have reviewed Karen's email below. It appears that the proposed Bank Secrecy Act amendment is somewhat similar to existing OFAC sanctions for Cuba and Iran, and to ensure we do not breach its requirements we should not offer US dollar services to CBS (which fortunately I believe we are not).

There was one comment in Karen's email that concerned me (which I have highlighted in red), in which she

has said UK institutions should not be transacting business with/via CBS. I am not sure whether this is on the basis of the information she describes immediately before it regarding allegations from the US that CBS is a conduit for terrorist funds, or on specific information in the US notice that covers us dealing in a non US dollar currency with CBS which she has not detailed in her email. We should seek clarification on this. If the former, and she is correct in her assertion, then this would go against previous advice and have consequences on our relationships with entities such as Interpal (an OFAC SDGT).

Karen has also mentioned that we may be in breach of UN sanctions. We should seek clarification on whether this was due to information she has seen, or a suggestion that we check to see if similar sanctions are in place.

Finally a point on briefly mentioned in Karen's email, is that the proposed amendment covers all of the subsidiaries of CBS, I think we should identify who these subsidiaries are, and what other connections we may have in GBS and elsewhere in the bank.

Regards

Guy

**Guy Cole**  
**CBFM Money Laundering Prevent Unit**  
**The Royal Bank of Scotland**  
**135 Bishopsgate, London, EC2M 3UR**  
**T (020) 7375 5433**  
**F (020) 7375 4641**  
**<mailto:Guy.Cole@rbos.com>**

-----Original Message-----

**From:** RODGER, Irvine, CBFM Regulatory Risk

**Sent:** 08 June 2004 14:30

**To:** COLE, Guy, CBFM Regulatory Risk; GREENFIELD, Katie, CBFM Regulatory Risk; JONES, Richard, CBFM Regulatory Risk; SIMS, Claire, CBFM Regulatory Risk

**Subject:** FW: Patriot Act: Commercial Bank of Syria

Dear All

Please review some detailed analysis from Karen Vibert on the Syrian Commercial Bank matter. I think we should discuss it when next we meet.

Regards

**Irvine Rodger**

**CBFM MLPU**  
**The Royal Bank of Scotland**  
**135 Bishopsgate, London, EC2M 3UR**  
**T (020) 7334 1082**  
**F (020) 7375 4641**  
**E irvine.rodger@rbos.com>**

-----Original Message-----

**From:** FOSTER, Stephen James, Group Risk Mgmt

**Sent:** 08 June 2004 13:24

**To:** VIBERT, Karen, Group Risk Mgmt; WICKENS, Ian, Group Risk Mgmt

**Cc:** RODGER, Irvine, CBFM Regulatory Risk

**Subject:** RE: Patriot Act: Commercial Bank of Syria



Thanks, helpful summary.

I have copied this to Irvine for info, though I know MLPU is already on the case.

-----Original Message-----

**From:** VIBERT, Karen, Group Risk Mgmt  
**Sent:** 08 June 2004 13:21  
**To:** WICKENS, Ian, Group Risk Mgmt  
**Cc:** FOSTER, Stephen James, Group Risk Mgmt  
**Subject:** RE: Patriot Act: Commercial Bank of Syria

Ian, the notice of this proposed rulemaking was issued by FinCEN in the Federal Register 18/5/04.

The position as regards US entities is that they must terminate any correspondent accounts established, maintained, administered, or managed in the US for, or on behalf of, Commercial Bank of Syria; they must also guard against their indirect use by Commercial Bank of Syria.

Therefore as a minimum US financial institutions are required to:

- 1) Notify correspondent account holders that they may not provide Commercial Bank of Syria with access to the correspondent account maintained at the financial institution; and
- 2) Take reasonable steps to identify any indirect use of the correspondent accounts by Commercial Bank of Syria, to the extent that such indirect use can be determined from transactional records maintained in the financial institution's normal course of business.
- 3) The US financial institution should take a risk-based approach when deciding what, if any, additional due diligence measures it should adopt to guard against the indirect use of its correspondent accounts by Commercial Bank of Syria.
- 4) If the US financial institution obtains knowledge that a correspondent account is being used by a foreign bank to provide indirect access to Commercial Bank of Syria, it must take all appropriate steps to block such indirect access, including, where necessary, terminating the correspondent account.

From a UK perspective, it could be possible for the U.S. government to claim jurisdiction over a non-U.S. entity's assets if that entity uses U.S. jurisdictional means in order to do business with a customer. We have already evidenced with RBSG that the U.S. government can seize deposits held in foreign correspondent accounts in U.S. banks for foreign bank's customers engaged in money laundering / terrorist activities impacting the U.S. The US "extra-territorial jurisdiction" can apply to a financial transaction that occurs "in whole or part" in the U.S. if the funds involved were derived from money laundering / terrorism crimes that include drug trafficking, extortion, fraud against a foreign bank, kidnapping, robbery, or destruction of property by explosion or fire.

The Notice in the Federal Register advises that FinCEN does not require or expect US financial institutions to obtain certification from its correspondent account holders that indirect access will not be provided in order to comply with this notice requirement. They may however satisfy this requirement by transmitting a one-time notice to all of their correspondent account holders by way of mail, fax, or email, advising:

*"Notice: Pursuant to U.S. regulations issued under section 311 of the USA PATRIOT Act, 31 CFR 103.188, please be informed that you are prohibited from providing Commercial Bank of Syria or any of its subsidiaries including Syrian Lebanese Commercial Bank) with access to the correspondent account(s) that we maintain for or on behalf of your institution. Any failure to comply with this prohibition may result in the termination of the affected correspondent account."*

In this case we are led to believe that CBS has been used by terrorists and/or persons associated with terrorist organisations; in addition, CBS has maintained accounts containing the proceeds from the illicit sale of Iraqi oil in violation of UN sanctions. Some of the money appears to have been used to purchase military weapons which may now be in use against coalition troops in Iraq. Funds have not be frozen and transferred to the Development Fund of Iraq. We are also advised that numerous transactions through accounts at CBS reference a reputed financier for Osama bin Laden. As such, it certainly appears that UK financial institutions should not be transacting business with / via the CBS.

I did not evidence CBS on the Bank of England list as yet, but it would appear that we do need to now exercise care.

It would therefore appear that:

- we can expect to receive notices from US financial institutions regarding this prohibition on correspondent accounts;
- we will need to ensure that we are not providing access to these for CBS;
- any failure on our part to comply with the notice could put our US funds at risk of being frozen by the US authorities;
- we could also be in breach of UN sanctions.

I would certainly suggest that this is something the BBA should take up with HMT, perhaps with some coverage on extra-territorial jurisdiction in the 3MLD, but specifically with regard to future similar requirements in this respect and in the nature of international co-operation and information sharing.

As mentioned earlier I have emailed Carolyn at CFG to see what, if any, written procedures they have in this respect, and will advise you accordingly when I receive her response.

Hope this helps.

Karen

-----Original Message-----

From: WICKENS, Ian, Group Risk Mgmt

Sent: 08 June 2004 11:03

To: RODGER, Irvine, CBFM Regulatory Risk; JONES, Richard, CBFM Regulatory Risk; Miles, Phil

Cc: FOSTER, Stephen James, Group Risk Mgmt; VIBERT, Karen, Group Risk Mgmt; NORRIE, Ben, Group Risk Mgmt

Subject: FW: Patriot Act: Commercial Bank of Syria

I think I should alert you to this fairly promptly noting the deadline for comment. We will give some thought to it also but any initial thoughts? We can envisage a flurry of activity from US correspondents demanding assurances that we do not transact with CBS.

regards

Ian

Ian Wickens

Senior Policy Consultant,  
Anti-Money Laundering  
Group Risk Management

The Royal Bank of Scotland Group  
5th Floor, 280 Bishopsgate  
London EC2M 4RB

Tel: 020 7334 1409 (Internal 7 6572 1409)  
E-mail: [Ian.WICKENS@rbos.com](mailto:Ian.WICKENS@rbos.com)

-----Original Message-----

From: Jeremy Thorp [[<mailto:Jeremy.Thorp@bba.org.uk>](mailto:Jeremy.Thorp@bba.org.uk)]  
Sent: 07 June 2004 09:45  
To: [administrator@bba.org.uk](mailto:administrator@bba.org.uk)  
Subject: Patriot Act: Commercial Bank of Syria

To: MLPG  
MLAP

Date: 7 June 2004

Please see the attached note on a recent decision by the US authorities affecting relations with the Commercial Bank of Syria and correspondent bank accounts with US banks.

Please let me know if this is an issue affecting UK banks which we should raise either with the UK or US authorities. The deadline for comments to the US is 17 June.

Jeremy Thorp  
Director, Financial Crime, BBA  
Tel: (020) 7216-8853  
Email: [jeremy.thorp@bba.org.uk](mailto:jeremy.thorp@bba.org.uk)

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<< File: 180757.DOC >>

**EXHIBIT 126 to Declaration of Joel Israel**

## Unknown

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**From:** Wyles, Graeme  
**Sent:** Friday, December 17, 2004 3:37 AM  
**To:** Dickinson, Alan (CB London); RODGER, Irvine, CBFM Enterprise Risk; Weir, Derek  
**Cc:** LOVE, Kevin, CBFM; COLE, Guy, CBFM Enterprise Risk; Lewis, Jill  
**Subject:** RE: Interpal November Review

And me

Graeme Wyles  
Director Risk  
Commercial Banking , UK  
020 7672 0194  
Mobile: 07887 898668  
Pager 07693 266560  
Depot 028

-----Original Message-----

**From:** Dickinson, Alan (CB London)  
**Sent:** 16 December 2004 13:09  
**To:** RODGER, Irvine, CBFM Enterprise Risk; Weir, Derek; Wyles, Graeme  
**Cc:** LOVE, Kevin, CBFM; COLE, Guy, CBFM Enterprise Risk; Lewis, Jill  
**Subject:** RE: Interpal November Review

Ok by me.

Alan

-----Original Message-----

**From:** RODGER, Irvine, CBFM Enterprise Risk  
**Sent:** Thursday, December 16, 2004 1:06 PM  
**To:** Dickinson, Alan (CB London); Weir, Derek; Wyles, Graeme  
**Cc:** LOVE, Kevin, CBFM; COLE, Guy, CBFM Enterprise Risk; Lewis, Jill  
**Subject:** FW: Interpal November Review

Dear All

Guy has completed his investigation into the payments from Interpal. He did a thorough job and searched a number of databases including

Financial sanctions and Terrorist Financing lists (UK and US)  
Complicheck  
World Check  
Google

As you can see there were no direct matches with any entities on Sanctions & Terrorist lists. He did however uncover some, mainly unsubstantiated commentary on a number of recipients but none of these are sanctioned names. Please refer to Guy's email for detail.

I leave it to you to decide the appropriate course of action but I would recommend that we keep the account open and continue performing similar thorough reviews of account behaviour. One strike and they are out??

Please advise accordingly.

Regards

Irvine Rodger  
CBFM MLPU  
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135 Bishopsgate, London, EC2M 3UR (Depot 028)

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Int: 361082  
Fax: (020) 7085 4641  
e: irvine.rodger@rbos.com <mailto:irvine.rodger@rbos.com>

-----Original Message-----

From: COLE, Guy, CBFM Enterprise Risk  
Sent: 16 December 2004 11:43  
To: RODGER, Irvine, CBFM Enterprise Risk  
Subject: Interpal November Review

Irvine

I have just finished reviewing the payments for the last six months for Interpal. There were over 60 organisations receiving funds from Interpal, none of these organisations were found to be listed in the Bank of England or OFAC (US) sanctions. Additionally none of these organisations were found to be present in the external due diligence database Worldcheck.

As one might expect with charities operating in this region, speculation exists around some of the organisations being connected with terrorism, in particular Hamas. The most significant of these are the following:

#### Al-Mujamma Al-Islami

Created in 1978 by the spiritual leader of Hamas Sheikh Ahmed Yassin, this is the largest charity operating in the Gaza Strip and is allegedly affiliated with the Hamas Civilian wing, Dawwa. Annual budget of 50 million dollars, Al-Mujamma al-Islami is reported to provided assistance to 20,000 orphans, 50,000 families, 10,000 university students, 20,000 school children. It's bank accounts were frozen by the Palestinian Authorities in August 2003, although the funds were released earlier this year following a Supreme Court in Gaza ruling.

Interpal published details of their funding to this organisation in 2002, and consequently the relationship should have been reviewed by the Charities Commission and Law enforcement last year. No action was been taken.

All of the below organisations, which have received Interpal funds in the last six months, were cited as Hamas organisations in the indictment of the US Islamic charity The Holy Land Foundation, which was prosecuted in the US for funding terrorism. The Holy Land Foundation is subject to sanctions by the Bank of England, EU and OFAC (US), although none of the below organisations are subject to sanctions themselves. -

Al-Salah Association (Bank accounts were also frozen by the Palestinian Authorities in August 2003, although the funds were released earlier this year following a Supreme Court in Gaza ruling. Ramallah Office closed down in the summer 2004 by Israel forces for funding terror activities)

[REDACTED]  
Jenin Zakat Committee  
Nablus Zakat Committee

[REDACTED]  
Ramallah Zakat Committee (Funds held in this organisations accounts at Arab Bank, were confiscated by Israeli forces February 2004)

Tulkarem Zakat Committee (Funds held in this organisations accounts at Arab Bank, were confiscated by Israeli forces February 2004)

If you require further information or investigation, please advise.

Regards

Guy

Guy Cole  
CBFM Money Laundering Prevent Unit  
The Royal Bank of Scotland  
135 Bishopsgate, London, EC2M 3UR  
Tel. (020) 7085 5433  
Internal 76572 365433  
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<<mailto:Guy.Cole@rbos.com>>

CBFM MLPU Website: <<http://cbfmweb.fm.rbsgrp.net/cbfmmlpu/>> (Answers to many frequently asked questions can be found on this website)

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<http://www.rbsmarkets.com>

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**EXHIBIT 127 to Declaration of Joel Israel**



**From:** FOSTER, Stephen James, Group Risk Mgmt  
**Sent:** Thursday, December 30, 2004 07:27 AM  
**To:** ZZLOVE, Kevin. Corporate Markets  
**Cc:** RODGER, Irvine, MLPU; NORRIE, Ben, Group Risk Mgmt  
**Subject:** RE: Interpal - Strictly Confidential

OK.

-----Original Message-----

From: LOVE, Kevin, CBFM  
Sent: 30 December 2004 12:27  
To: FOSTER, Stephen James, Group Risk Mgmt  
Cc: RODGER, Irvine, CBFM Enterprise Risk; NORRIE, Ben, Group Risk Mgmt  
Subject: Re: Interpal - Strictly Confidential

Stephen,  
I am not sure which meeting you are referring to? Also, the action we have taken has satisfied Amanda so I do not understand why you still seem to have issues? Can you please speak with Amanda so that we know what we are meant to be doing. If GER now want us to exit then can you please give us a clear and joined up view. Many thanks Kevin

-----  
Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: FOSTER, Stephen James, Group Risk Mgmt <Stephen.J.FOSTER@rbos.com>  
To: LOVE, Kevin, CBFM <Kevin.LOVE@rbos.com>  
CC: RODGER, Irvine, CBFM Enterprise Risk <Irvine.Rodger@rbos.com>; NORRIE, Ben, Group Risk Mgmt <Ben.NORRIE@rbos.com>  
Sent: Thu Dec 30 12:04:55 2004  
Subject: RE: Interpal - Strictly Confidential

Thanks for this.

I note that care is being taken over the relationship, which is good.

It is a shame that the meeting has been cancelled, as we need to discuss this. Interpal is blacklisted by OFAC not BoE, the US and UK have different foreign policies over Israel and Palestine, and the Commissioners have not found any irregularities in the operation of Interpal in the UK. However, with the RBS plans to expand in the US, having relationships like this is going to cause us problems - just look at the recent Structured Finance case where we could not sign the OFAC questionnaire and so may face being excluded in future from such deals.

We need to agree a sensible way forward, so an early 2005 meeting would be good.

-----Original Message-----

From: LOVE, Kevin, CBFM  
Sent: 17 December 2004 17:11  
To: FOSTER, Stephen James, Group Risk Mgmt; HOLT, Amanda, Group Risk Mgmt (nee Turner)  
Cc: RODGER, Irvine, CBFM Enterprise Risk; COLE, Guy, CBFM Enterprise Risk; JONES, Richard, CBFM Enterprise Risk  
Subject: FW: Interpal - Strictly Confidential  
Importance: High

Fyi

Kevin R. Love  
Global Head of Enterprise Risk  
Corporate Banking \_Financial Markets  
The Royal Bank of Scotland Group Plc

kevin.love@rbos.com

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Pager: +44 7693 308651 Blackberry: +44 7793 858329

-----Original Message-----

From: Dickinson, Alan (CB London)

Sent: 17 December 2004 17:10

To: CAMERON, John A N (CBFM)

Cc: LOVE, Kevin, CBFM

Subject: Interpal - Strictly Confidential

Johnny,

In September 2003, the US Office of Foreign Asset Control ('OFAC') designated the charity 'Interpal' a terrorist organisation due to links with HAMAS. Interpal is a British registered charity, and CBFM NatWest customer. Interpal's accounts were immediately frozen, and the Charities Commission and Special Branch investigated the US allegations. The investigation found that there was insufficient evidence to prove a link to terrorism, so no UK action was taken against Interpal and it operates freely in the UK.

Following the outcome of the UK authorities investigation, CBFM Money Laundering Prevention Unit ('MLPU') undertook to review Interpal accounts on a semi annual basis to ensure that none of its funds were being sent to terrorist groups. The most recent review was for the six months leading to November 2004. None of Interpal's payments reviewed were found to have been made to a UK or US designated terrorist organisation. Nor did the external due diligence database Worldcheck contain adverse information on any of the recipients of Interpal's funds.

Last week the RBS Retail Media Relations Team identified a recent US article mentioning the Interpal accounts held at NatWest and escalated the article to Group Enterprise Risk ('GER'). GER were already aware of this connection and the monitoring being undertaken, but asked CBFM MLPU for confirmation that CBFM were still content to maintain this relationship. Following the CBFM MLPU Interpal review, a briefing on Interpal was sent to me for consideration of the relationship. There were no adverse findings by the CBFM MLPU, and I have, therefore, decided to maintain the Interpal Bank account and relationship with them.

Derek Weir and I will ensure that this is closely monitored and referred to us so that we can take appropriate action if any adverse findings do arise.

Alan

**EXHIBIT 128 to Declaration of Joel Israel**

## Unknown

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**From:** RODGER, Irvine, CBFM Enterprise Risk  
**Sent:** Monday, January 31, 2005 8:22 AM  
**To:** ZZLOVE, Kevin. Corporate Markets  
**Cc:** COLE, Guy, MLPU; JONES, Richard, MLPU  
**Subject:** RE: Residual Risk

Kevin

I have thought of another two Interpal-like cases - Commercial Bank of Syria and Myanmar Foreign Trade Bank. We are exiting both/

Cheers

Irvine Rodger  
CBFM MLPU  
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e: [HYPERLINK "mailto:irvine.rodger@rbos.com"irvine.rodger@rbos.com](mailto:HYPERLINK \)

-----Original Message-----

**From:** LOVE, Kevin, CBFM  
**Sent:** 31 January 2005 10:03  
**To:** RODGER, Irvine, CBFM Enterprise Risk  
**Cc:** COLE, Guy, CBFM Enterprise Risk  
**Subject:** RE: Residual Risk  
**Importance:** High

Probably a fraud which is why I cc'd Debs

Kevin R. Love  
Global Head of Enterprise Risk  
Corporate Banking & Financial Markets  
The Royal Bank of Scotland Group Plc  
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Mobile: +44 7769 931630

-----Original Message-----

**From:** RODGER, Irvine, CBFM Enterprise Risk  
**Sent:** 31 January 2005 09:50  
**To:** LOVE, Kevin, CBFM  
**Cc:** COLE, Guy, CBFM Enterprise Risk  
**Subject:** RE: Residual Risk

What is the "Myanmar Embassy" one?

Irvine Rodger  
CBFM MLPU  
The Royal Bank of Scotland plc  
135 Bishopsgate, London, EC2M 3UR (Depot 028)  
Tel: (020) 7085 1082  
Int: 361082

Fax: (020) 7085 4641

e: HYPERLINK "mailto:irvine.rodger@rbos.com"irvine.rodger@rbos.com

-----Original Message-----

From: LOVE, Kevin, CBFM

Sent: 31 January 2005 07:08

To: JONES, Richard, CBFM Enterprise Risk; SEARS, Debbie, CBFM; COLE, Guy, CBFM Enterprise Risk; GREENFIELD, Katie, CBFM Enterprise Risk

Cc: RODGER, Irvine, CBFM Enterprise Risk; DANIEL, Jane, CBFM

Subject: Residual Risk

Importance: High

Please describe for me any residual risk that might exist relating to the following transactions:

Interpal



In addition, if there are other transactions which we still have, are known to either GER or GFC and have residual risk associated with them (typically of a Reputational nature) please advise me e.g. accounts we have not exited at the decision of the business.

We will need to keep these recorded in the Residual Risk log going forward.

Thanks

Kevin R. Love

Global Head of Enterprise Risk

Corporate Banking & Financial Markets

The Royal Bank of Scotland Group Plc

kevin.love@rbos.com

Work: +44 20 7085 4026

Mobile: +44 7769 931630

**EXHIBIT 129 to Declaration of Joel Israel**

## Unknown

---

**From:** LOVE, Kevin, CBFM  
**Sent:** Wednesday, June 29, 2005 11:33 AM  
**To:** RODGER, Irvine, CBFM Enterprise Risk; COLE, Guy, CBFM Enterprise Risk  
**Subject:** RE: Interpal Payments

**Importance:** High

OK, great thanks.

Kevin R. Love  
Global Head of Enterprise Risk  
Corporate Banking & Financial Markets  
The Royal Bank of Scotland Group Plc  
kevin.love@rbos.com  
Work: +44 20 7085 4026  
Mobile: +44 7769 931630

-----Original Message-----

From: RODGER, Irvine, CBFM Enterprise Risk  
Sent: 29 June 2005 14:26  
To: LOVE, Kevin, CBFM; COLE, Guy, CBFM Enterprise Risk  
Subject: RE: Interpal Payments

Kevin

I think that a quarterly review would be appropriate (monthly over the top).

Regards

Irvine Rodger  
CBFM MLPU  
The Royal Bank of Scotland plc  
135 Bishopsgate, London, EC2M 3UR (Depot 028)  
Tel: (020) 7085 1082  
Int: 361082  
Fax: (020) 7085 4641  
e: [HYPERLINK "mailto:irvine.rodger@rbos.com"irvine.rodger@rbos.com](mailto:irvine.rodger@rbos.com)

-----Original Message-----

From: LOVE, Kevin, CBFM  
Sent: 29 June 2005 14:06  
To: RODGER, Irvine, CBFM Enterprise Risk; COLE, Guy, CBFM Enterprise Risk  
Subject: RE: Interpal Payments  
Importance: High

Irv/Guy,  
I think that we should increase the frequency of the six monthly search to at least quarterly (would monthly be over-the-top?) as, with Interpal being on the OFAC list, there is a high likelihood that they will make payments to organisations that are subsequently put on the BoE lists, regardless of whether they are on the BoE list themselves. Trust this is OK?  
Cheers

Kevin R. Love  
Global Head of Enterprise Risk  
Corporate Banking & Financial Markets  
The Royal Bank of Scotland Group Plc  
kevin.love@rbos.com

Work: +44 20 7085 4026  
Mobile: +44 7769 931630

-----Original Message-----

From: RODGER, Irvine, CBFM Enterprise Risk  
Sent: 29 June 2005 10:02  
To: LOVE, Kevin, CBFM; COLE, Guy, CBFM Enterprise Risk  
Subject: RE: Interpal Payments

Kevin

Belinda is the RM. This is the account which Johnny agreed should be maintained.

We have found no evidence that Interpal is making payments to proscribed organisations in the past. (Guy reviews payments on a six-monthly basis to check)

For these reasons, I think it remains appropriate that the account is kept open.

Regards

Irvine Rodger  
CBFM MLPU  
The Royal Bank of Scotland plc  
135 Bishopsgate, London, EC2M 3UR (Depot 028)  
Tel: (020) 7085 1082  
Int: 361082  
Fax: (020) 7085 4641  
e: [HYPERLINK "mailto:irvine.rodger@rbos.com"irvine.rodger@rbos.com](mailto:HYPERLINK \)

-----Original Message-----

From: LOVE, Kevin, CBFM  
Sent: 29 June 2005 06:13  
To: COLE, Guy, CBFM Enterprise Risk  
Cc: RODGER, Irvine, CBFM Enterprise Risk  
Subject: RE: Interpal Payments  
Importance: High

Guy,  
Who is Belinda Lane? I recall us discussing this account before – with hindsight should we have bailed out before it got to this?  
Regards

Kevin R. Love  
Global Head of Enterprise Risk  
Corporate Banking & Financial Markets  
The Royal Bank of Scotland Group Plc  
[kevin.love@rbos.com](mailto:kevin.love@rbos.com)  
Work: +44 20 7085 4026  
Mobile: +44 7769 931630

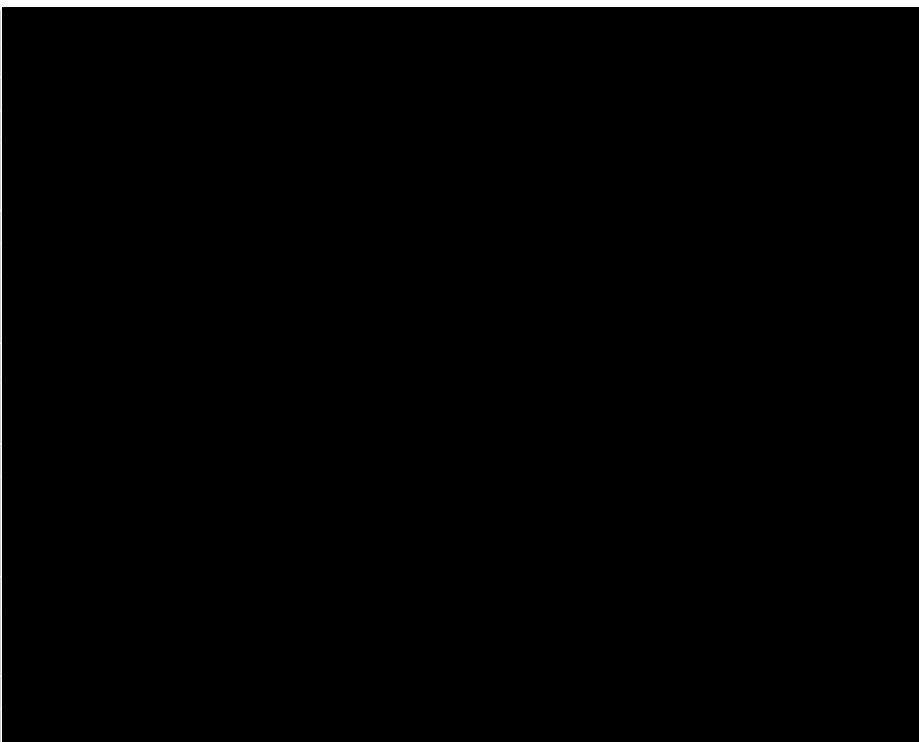
-----Original Message-----

From: COLE, Guy, CBFM Enterprise Risk  
Sent: 28 June 2005 16:12  
To: Lane, Belinda  
Cc: RODGER, Irvine, CBFM Enterprise Risk; LOVE, Kevin, CBFM; FOSTER, Stephen James, Group Risk Mgmt; DAVIES, Rob, Group Risk Mgmt; Wyles, Graeme  
Subject: Interpal Payments  
Importance: High

Belinda



Yesterday, the Bank of England issued a notice that prevents funds or assets being made available to the Palestinian charity [REDACTED]. A number of name variations for the charity were issued (which I have detailed below), and one of these names, [REDACTED], has matched as a recipient of a payments previously made by Interpal.



This is a link to the Bank of England press release <http://www.bankofengland.co.uk/publications/news/2005/075.htm>.

Please advise Interpal that no further payments (including indirectly) can be made to this charity, as doing so will constitute a criminal offence.

To ensure compliance and for prudence sake, we will require Interpal to confirm to us in writing that they will not make any funds, other financial assets, economic benefits or economic recourses available, either directly or indirectly to, or for the benefit of an entity or person targeted by the Bank of England under The Terrorism (United Nations Measures) Order 2001 .

We strongly suggest that Interpal subscribes to the Bank of England's Sanctions unit email service to receive notification of any changes to the list of entities or individuals suspected of terrorist financing. This is a link to the Bank of England's Sanctions webpage, <http://www.bankofengland.co.uk/publications/financialsanctions/index.htm>.

I am currently undertaking my semi annual review of Interpal payments, and will be providing a report to a senior management in the next few weeks to consider the ongoing risk of maintaining the relationship

If you wish to discuss further please do not hesitate to call me, or Irvine Rodger (020 7085 1082) in my absence.

Regards

Guy

Guy Cole  
CBFM Money Laundering Prevent Unit  
The Royal Bank of Scotland  
135 Bishopsgate, London, EC2M 3UR  
Tel. (020) 7085 5433  
Internal 76572 365433  
Fax. (020) 7085 4641  
<mailto:Guy.Cole@rbos.com>  
CBFM MLPU Website: <http://cbfmweb.fm.rbsgrp.net/cbfmmlpu/> (Answers to many frequently asked questions can be

found on this website)

**EXHIBIT 130 to Declaration of Joel Israel**

## Unknown

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**From:** COLE, Guy, CBFM Enterprise Risk  
**Sent:** Wednesday, July 06, 2005 10:41 AM  
**To:** LOVE, Kevin, CBFM  
**Cc:** RODGER, Irvine, CBFM Enterprise Risk; Wyles, Graeme; FOSTER, Stephen James, Group Risk Mgmt  
**Subject:** INTERPAL Account Activity Review  
**Attachments:** Interpal memo july 2005.doc

Kevin

Please find attached a copy of my review of the activity on the accounts of INTERPAL, the UK charity that is subject to OFAC sanctions.



Interpal memo july  
2005.doc (1...

In light of the findings of May 2005 review, the CBFM MLPU has decided to increase monitoring to quarterly reviews, but recommends that the relationship is still maintained.

Regards

Guy

Guy Cole  
CBFM Money Laundering Prevent Unit  
135 Bishopsgate, London, EC2M 3UR  
Tel. (020) 7085 5433  
Internal 76572 365433  
Fax. (020) 7085 4641  
Email: Guy.Cole@rbos.com



## Memo

To: Kevin R. Love  
Global Head of CBFM Enterprise Risk

From: Guy Cole  
Manager  
CBFM MLPU

Date: 6 July 2005

Subject: **Semi annual review of INTERPAL account activity**

Corporate Banking & Financial Markets  
135 Bishopsgate  
London EC2M 3UR

Tel: 020 7085 5433  
Internal: 365433  
Email: guy.cole@rbos.com

The CBFM MLPU has completed the semi annual review of the activity on the INTERPAL accounts. In light of the findings of May 2005 review detailed below, the CBFM MLPU has decided to increase monitoring to quarterly reviews, but recommends that the relationship is still maintained.

### Purpose of the account review

In September 2003, the US Office of Foreign Asset Control ('OFAC') designated the charity 'INTERPAL' a terrorist organisation due to links with HAMAS. INTERPAL is a British registered charity, and CBFM NatWest customer. INTERPAL's accounts were immediately frozen, and the Charities Commission and Special Branch investigated the US allegations. The investigation found that there was insufficient evidence to prove a link to terrorism, so no UK action was taken against INTERPAL and it operates freely in the UK.

Following the outcome of the UK authorities' investigation, CBFM Money Laundering Prevention Unit ('MLPU') undertook to review INTERPAL accounts on a semi annual basis to ensure that none of its funds are being sent to terrorist groups. This memo details the findings of the review taken in May 2005.

### Review of the account activity for the six months to May 2005

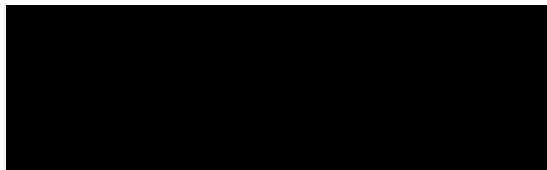
In the six months to May 2005, none of the INTERPAL payments reviewed were, at the time of the payment, made to a Bank of England or OFAC designated terrorist organisation.

However, a recipient who received a payment from INTERPAL in [REDACTED] has since been designated by the Bank of England as an organisation suspected of supporting terrorism. As this payment was made by INTERPAL prior to the terrorist designation of the recipient in June 2005, there has been no breach of the Terrorism (United Nations Measures) Order 2001.

The recipient of the INTERPAL payment was a charity called [REDACTED] this charity's name and address match against the Bank of England notice for the entity [REDACTED] <http://www.bankofengland.co.uk/publications/news/2005/075.htm>

The transaction details were as follows:

Date  
Value  
Beneficiary Name  
Beneficiary Address  
Beneficiary Bank  
Beneficiary Account



A Suspicious Activity Report has been submitted by CBFM MLPU to Group Financial Crime reporting the above transaction and some additional entities (see endnote<sup>1</sup>). The additional entities reported are not designated as terrorist organisations by the Bank of England or OFAC, and information on the funding to these organisations is publicly available on the INTERPAL website.

No allegations were found on any other recipients of INTERPAL payments. All payment recipients were checked against Complicheck, Worldcheck and subject to Internet research.

In December 2004, The Israeli Intelligence and Terrorism Information Center issued an information bulletin<sup>ii</sup> on INTERPAL. No new insight into INTERPAL was given by the bulletin and the text on a whole is quite emotive. No reference was made to INTERPAL's NatWest accounts or the RBS Group.

#### CBFM MLPU Summary and Recommendation

Although a payment was made to the [REDACTED] I do not believe that there has been an increase in the risk of INTERPAL funding terrorism or to the Bank's reputation in maintaining this relationship.

In January 2005 the US dollar account maintained by INTERPAL was closed at our request, which has reduced the exposure our relationship has to OFAC sanctions against INTERPAL.

At a workshop attended in June on 'Managing the Risks of Funding Terror', Nick Ridley the lead intelligence analyst on the financing of terrorism at Europol, advised that a government designation of an organisation as a financier of terrorism (as INTERPAL has been by OFAC), almost certainly means that no financing of terrorism would take place via the entity after the designation. Therefore, the result of OFAC's designation of INTERPAL as a supporter of terrorism has actually reduced the risk of the INTERPAL being used to fund terrorism.

Following the terrorist organisation designation of [REDACTED] we have now requested written confirmation from INTERPAL that they will not make any future payments to organisations suspected of terrorist financing by the Bank of England. We have suggested that they register with the Bank of England's Sanctions Unit so that they receive email notification of any new designations made by the Bank of England. INTERPAL has agreed to provide this letter.

CBFM MPLU recommends the continuation of the relationship with INTERPAL, but will now review the account activity on a quarterly basis (previously it has been semi annually).

i

- Al-Islah Charitable Association – Listed by Israeli as a terrorist organisation
- [REDACTED] - Listed by Israeli as a terrorist organisation
- [REDACTED] - listed as Hamas controlled during the Holy Land Foundation prosecution in the US
- Nablus Zakat Committee - listed as Hamas controlled during the Holy Land Foundation prosecution in the US
- Ramallah Zakat Committee - listed as Hamas controlled during the Holy Land Foundation prosecution in the US
- [REDACTED] - listed as Hamas controlled during the Holy Land Foundation prosecution in the US
- [REDACTED] – purported to be terrorist linked in the media

<sup>ii</sup> [http://www.intelligence.org.il/eng/sib/12\\_04/interpal.htm](http://www.intelligence.org.il/eng/sib/12_04/interpal.htm). Parts 5 and 6 are the only sections that specifically discuss INTERPAL. The individual Essam Yussuf, described as central figure in INTERPAL, is not an INTERPAL trustee.

**EXHIBIT 131 to Declaration of Joel Israel**

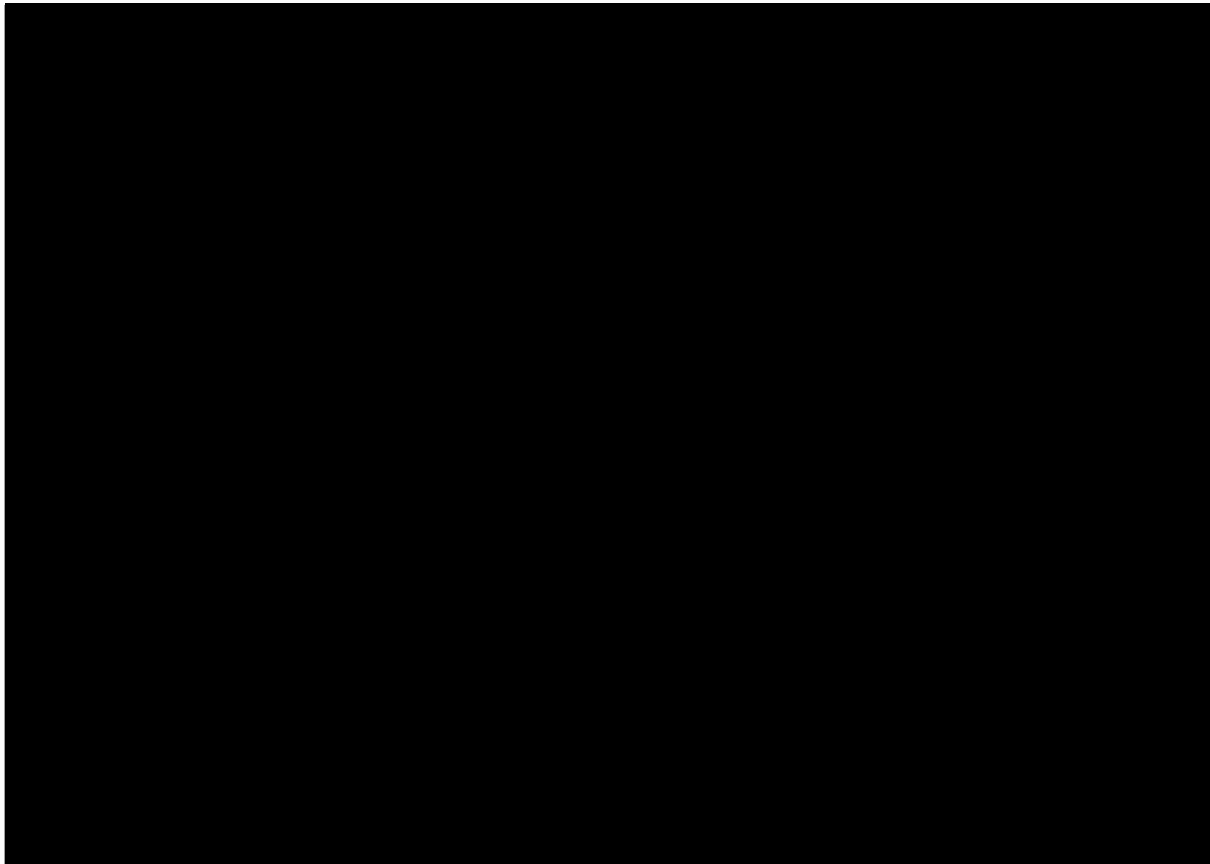
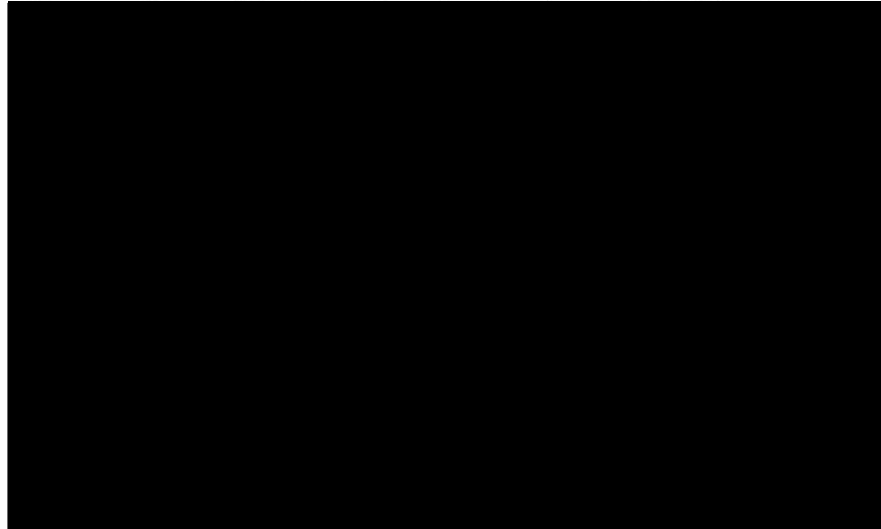
NCIS Disclosure for Case 1748664 (Received)

Close Print

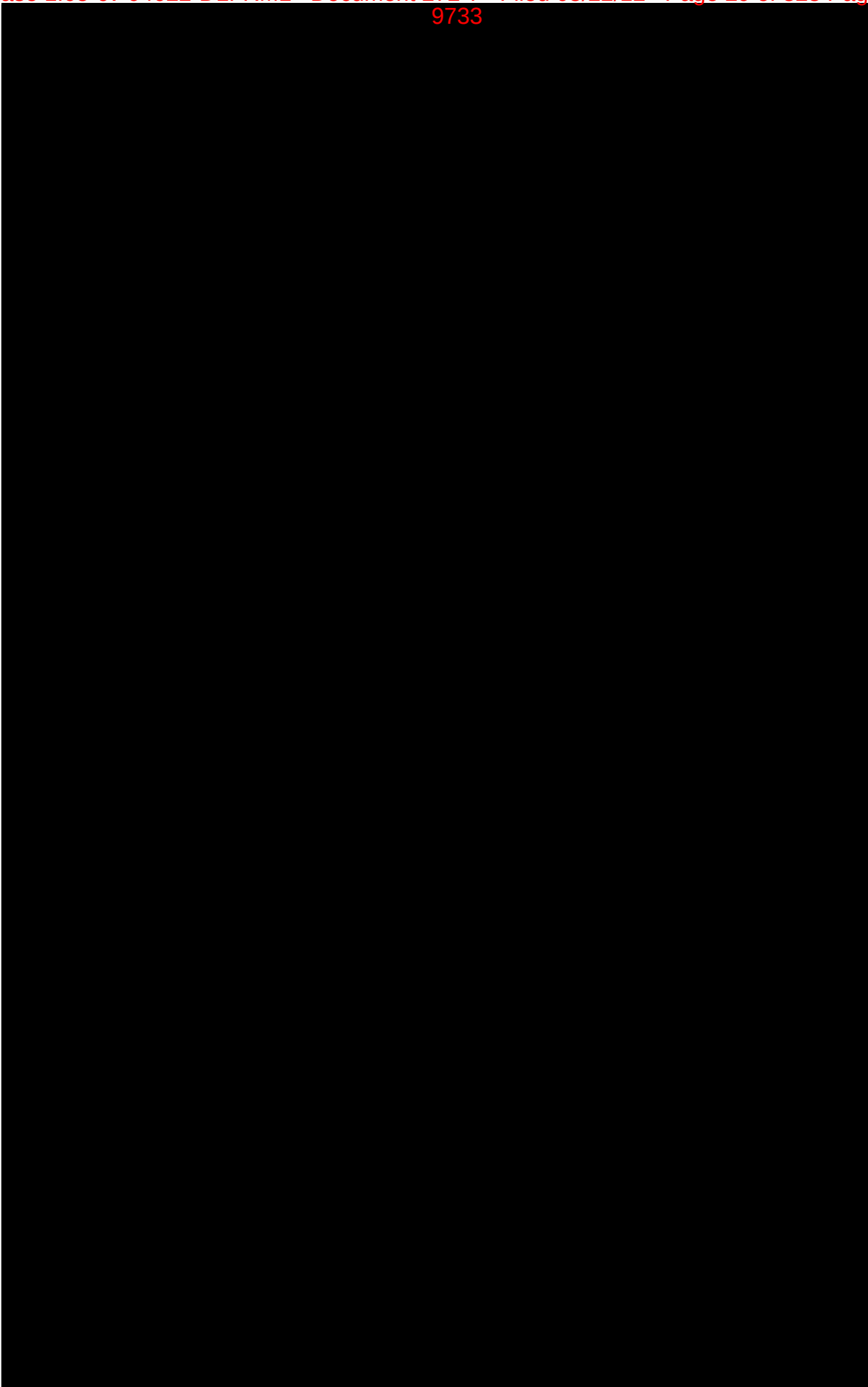
Core NCIS details created on 06 Jan 2006 by EUROPA\_neillsa [ Submitted by  
RBS ohearaa on 09-JAN-06 ]

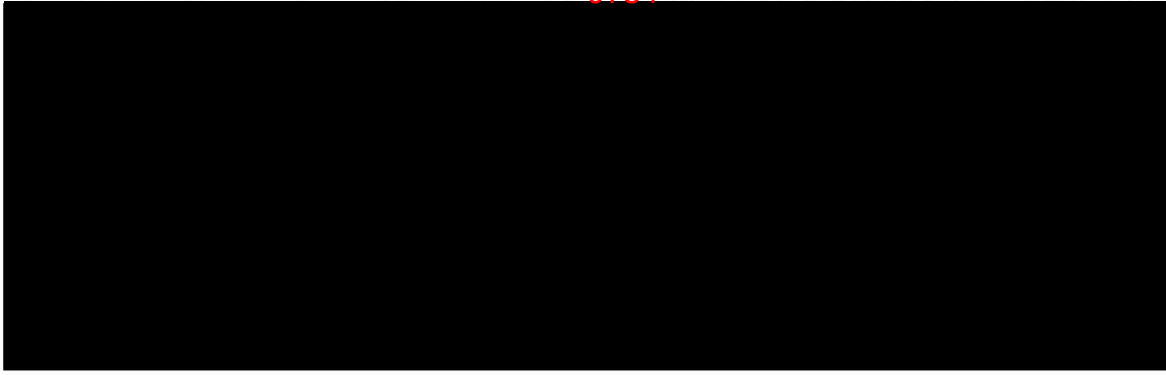
Disclosure Type	Terrorism	Submitting Branch Address	NWB
Disclosure Date	09 Jan 2006		COMMERCIAL OFFICE
Branch / Outlet	FINSBURY PARK		ROMFORD
Branch Code	60-08-22		
Trust Indicator	N		
Further Information	Y	Postcode	

Text









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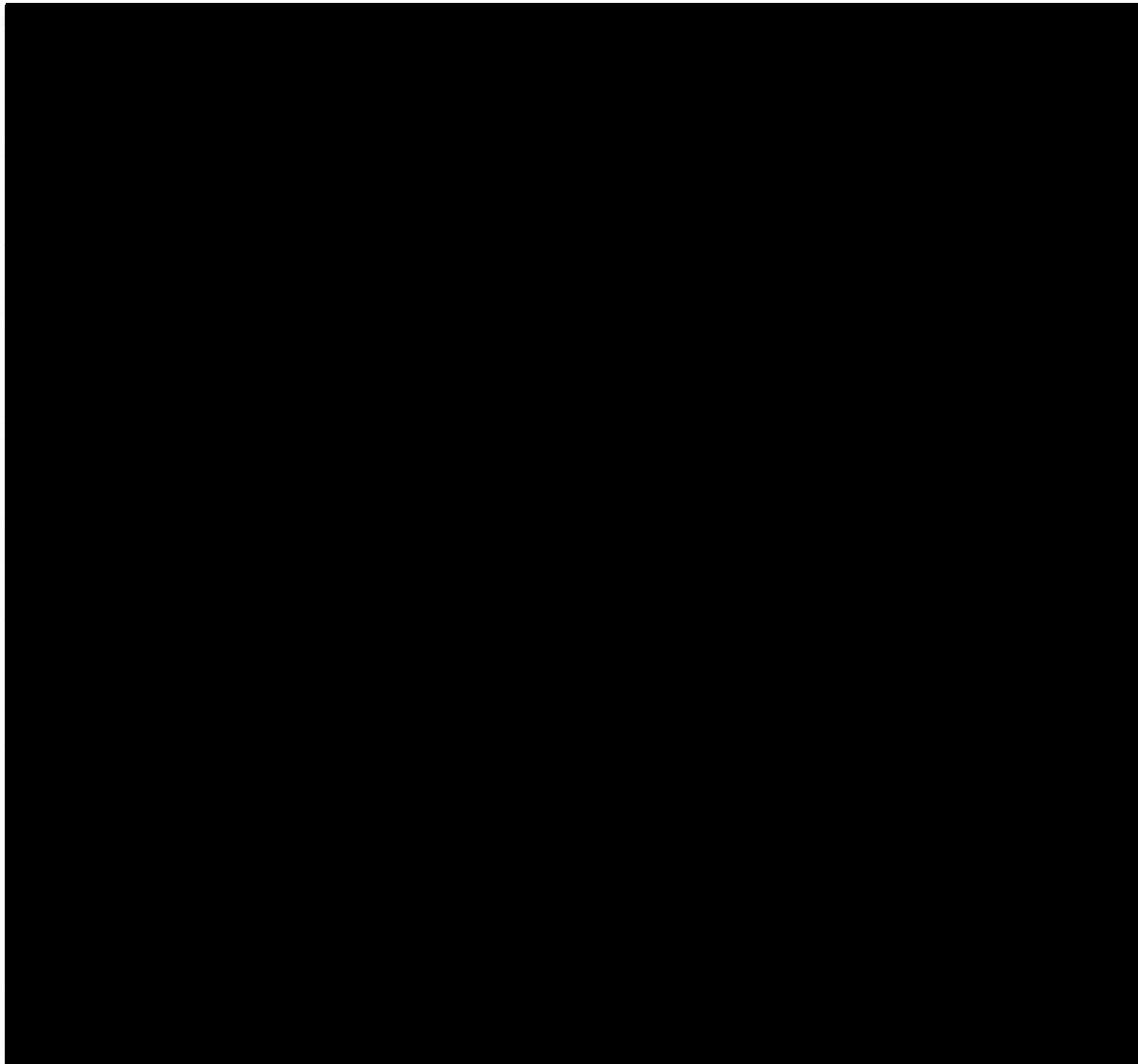
NCIS Disclosure for Case 1748664 (Received)

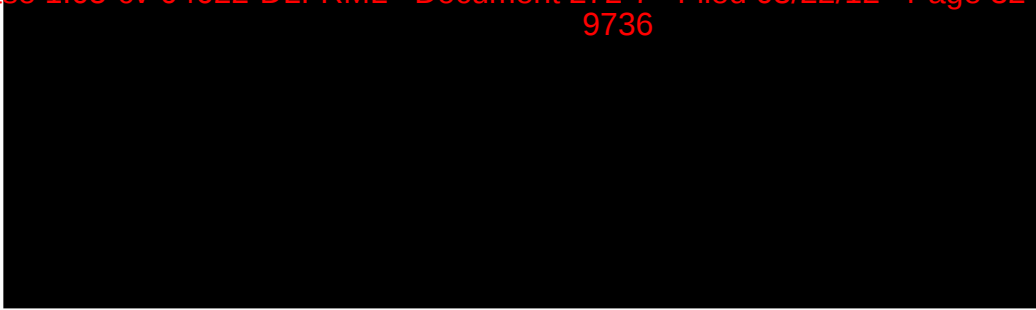
Close Print

Core NCIS details created on 21 Aug 2006 by EUROPA\_mcgowrb [ Submitted  
by EUROPA\_mcgowrb on 22-AUG-06 ]

Disclosure Type	Terrorism	Submitting Branch Address	NWB
Disclosure Date	21 Aug 2006		COMMERCIAL OFFICE
Branch / Outlet	FINSBURY PARK		ROMFORD
Branch Code	60-08-22		
Trust Indicator	N		
Further Information	Y	Postcode	

Text





**EXHIBIT 132 to Declaration of Joel Israel**

**From:** Richardson, Lesley <Lesley.Richardson@rbs.co.uk>  
**Sent:** Monday, January 10, 2005 5:45 AM  
**To:** JOLLY, Mark, Group Risk Mgmt <Mark.JOLLY@rbs.co.uk>; Hoseason, Michael (GFC) <michael.hoseason@rbs.co.uk>  
**Cc:** SANDERS, Stephen, Group Risk Mgmt <Stephen.SANDERS@rbs.co.uk>; FOSTER, Stephen James, Group Risk Mgmt <Stephen.J.FOSTER@rbs.co.uk>; HOLT, Amanda, Group Risk Mgmt (nee Turner) <Amanda.HOLT@rbs.co.uk>; McAdam, Carolyn <Carolyn.McAdam@rbs.co.uk>; Gannon, Ian <Ian.A.Gannon@rbs.co.uk>; Mistry, Vijay <Vijay.Mistry@rbs.co.uk>  
**Subject:** RE: Press Article re Closure of FoAA accounts  
**Attach:** Executive Briefing Note 7 jan\_.doc

---

Mark / Mike

Following on from my previous email, attached is the short update produced for Sir Fred on Friday.

Please call me should you wish to discuss.

Regards  
Les (EXT. 224917)

Note referred to:

<<...>>

-----Original Message-----

**From:** JOLLY, Mark, Group Risk Mgmt  
**Sent:** 06 January 2005 12:41  
**To:** Hoseason, Michael (GFC); Richardson, Lesley; Mistry, Vijay  
**Cc:** SANDERS, Stephen, Group Risk Mgmt; FOSTER, Stephen James, Group Risk Mgmt; HOLT, Amanda, Group Risk Mgmt (nee Turner); McAdam, Carolyn; Gannon, Ian

**Subject:** Press Article re Closure of FoAA accounts

Mike, Lesley, Vijay

#### For Information

The FSA (John Trundle) telephoned this morning having seen the attached article in the Guardian and following receipt of an official complaint from the legal advisors to Mr Patel and the FoAA. JT advised that the FSA will respond to the complaint advising that it is not within the FSA remit to engage in such issues, but was also keen to ensure that the Group was confident of the issues surrounding our decision to close the accounts. No response to the FSA is required at this stage.

Stephen Foster has advised that our original decision has been reversed pending provision of additional information from Mr Patel and FoAA.

Following the FSA interest in this situation, it would be helpful if a short paper could be provided to myself detailing the background to this situation. Mike/Lesley could one of you provide this for me?

Regards

*Mark*

Mark Jolly  
Royal Bank of Scotland plc  
Group Regulatory & Supervisory Support  
Group Risk Management  
5th Floor, 280 Bishopsgate  
London, EC2R 4RB

Tel: 020 7085 1597  
Fax: 020 7085 4813  
Mobile: 07901 518867

Depot Code 028

<http://www.precise-media.co.uk/rbsretailbanking/pdfs/46526.pdf>

\*\*\*\*\*

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<http://www.rbs.co.uk/CBFM>  
<http://www.rbsmarkets.com>

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<< File: FoAA closure article Guardian 03.01.2005.pdf >>

Executive Briefing Note  
Friends of Al Aqsa and Related Accounts  
7 January 2005

**Connection**

- Friends of Al Aqsa (Limited Company, Business Current Account) – Director Ismail Patel
  - [REDACTED] Cr. Opened 1998
- 
- *Redacted - Non-Responsive*

All accounts held at RBS Leicester, Belgrave Gate.

**Background**

- We regularly have to review accounts for the purposes of anti money laundering and other sanctions & terrorist financing investigations:
  - In the 18 months to end December 2004 we had reviewed 8675 connections covering 22548 accounts. Of these 242 connections and 697 accounts had been exited (167 RBS, 530 NatWest). Of these 13 were appealed, 1 of which was upheld, the other 12 were closed.
  - The most common reason for exiting is suspicion of money laundering although 5 accounts have been closed for suspected links to terrorism.

In this particular Case

- In May 2003 the Al Aqsa Foundation world-wide was designated by UK & US governments as a 'financier of a terrorist organisation'
- A review by Group Financial Crime (GFC) highlighted a potential common donor between Al-Aqsa Foundation and Friends of Al-Aqsa. This led to a Suspicious Activity Report (SAR) being submitted by Group Financial Crime (GFC) to National Crime Squad (NCIS) on the Friends of Al-Aqsa account in May 2003. No further contact received from the police.
- A routine review by Group Risk in November 2004 highlighted a possible link between Friends of Al-Aqsa and Al Aqsa Foundation South Africa. This was based on the Friends of Al Aqsa web site showing both organisations as being co-hosts of a Justice in Palestine conference held in South Africa in July 2002. Group Risk advised that in their view there was insufficient evidence to exit the relationship at that time, but that this account should be monitored.
- A review of items paid from the Friends of Al Aqsa account did not identify any unusual transactions.
- However payments in to the account appeared to be uncontrolled as the account details were publicised on the Friends web site. This is not normal for a limited company, which should be able to identify and control the source of funds.
  - A review of the automated credits into the account against the 'Worldcheck' database<sup>1</sup> threw up 13 near name matches (surname and initial) and 21 possible name matches (surname only). As these individuals do not bank with RBS or NatWest, we were unable to confirm or discount that they were listed individuals.
- In addition connected accounts of Mr I A Patel a Director of Friends of Al-Aqsa, were investigated. A few significant round amount transactions were seen on the business account.
- The Retail Compliance review concluded that as a report of the jointly co-hosted conference was still on the web site there was a potential reputational risk that the Friends Al Aqsa would transpire to be still linked to Al Aqsa Foundation. This concern was heightened as the link to Al Aqsa Foundation had not been repudiated.

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<sup>1</sup> \*Worldcheck – Independent Group Approved database of politically exposed persons, individuals subject to UN / EU Sanctions and other listed individuals e.g. terrorists



- In view of the website link, the uncontrolled acceptance of items into the Friends of Al-Aqsa account and the unusual transactions on the business account the reputational risk of retaining the accounts was viewed as greater than exiting the relationship.
- Therefore 30 days 'notice of closure' which was given on 15<sup>th</sup> December 2004. In addition a SAR was given to NCIS (no response received to date)
- On return from his holiday on 24<sup>th</sup> December Mr Patel appealed the notice of closure. In addition he initiated a legal claim together with a press and internet based public action campaign against the RBS decision. The campaign plan included demonstrations for 7<sup>th</sup> January at Head Office and 8<sup>th</sup> January at Leicester branch.
- The Guardian, Edinburgh Evening News and Glasgow Herald picked up on the story with articles appearing from 3<sup>rd</sup> January onwards.

#### **Action Taken**

- Senior level review of the decision process. This showed facts as above. However in view of the reputational risk if the litigation was pursued together with the weight of public contacts (over 200 including threats to close accounts), press coverage and intimidated demonstrations it was clear that the reputational and financial risk of closure had been underestimated.
- A plan was agreed through the morning meeting. This was to request clarification on three round amount payments from the business account together with an update on the constitution of Friends of Al Aqsa. This evidence was readily provided and enabled us to establish there was no evidence of money laundering on the business account or the Friends of Al- Aqsa acting as a linked party to a proscribed organisation.
- On 6<sup>th</sup> January we issued letters rescinding the notice of closure. Mr Patel issued a notice asking for all action against the bank to be stopped and stopping further press coverage.
- We have apologised. No compensation was paid (customer advised he did not wish to receive any personal gain). In liaison with Howard Moody we have agreed to work with Mr Patel to establish if there are any community projects that the bank can support in the Leicester area as part of its community investment.
- We have agreed with Mr Patel a statement that can be used for all future customer, press and official contact. 'For obvious reasons, we are unable to discuss the detail, however following further discussions with Mr Patel, we are pleased to be able to continue our banking relationship'.
- Having completed all these actions the planned demonstrations were called off by the organisations acting in support of Mr Patel.

#### **Going Forward**

- We will continue to monitor all of these accounts.
- We will continue to review our existing processes around forced account closures and take remedial action where appropriate. Going forward, a reactionary process will still be required in very limited instances due to the type and nature of the investigations involved.

**EXHIBIT 133 to Declaration of Joel Israel**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----	X	
	:	
TZVI WEISS, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	CV 05-4622 (DLI) (MDG)
- against -	:	
	:	
NATIONAL WESTMINSTER BANK PLC,	:	
	:	
Defendant.	:	
-----	X	
	:	
NATAN APPLEBAUM, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	
- against -	:	
	:	CV 07-916 (DLI) (MDG)
NATIONAL WESTMINSTER BANK PLC,	:	
	:	
Defendant.	:	
-----	X	

**FOURTH SUPPLEMENTAL RESPONSES AND OBJECTIONS BY DEFENDANT  
NATIONAL WESTMINSTER BANK PLC TO PLAINTIFFS' SECOND SET OF  
INTERROGATORIES (CONTENTION INTERROGATORIES)**

Pursuant to the Court's Minute Order dated September 16, 2011, Defendant National Westminster Bank Plc ("NatWest") makes this fourth supplemental response to Plaintiffs' Second Set of Interrogatories Directed to Defendant National Westminster Bank Plc dated April 29, 2011 (the "Contention Interrogatories") as follows:

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COPIED OR DISCLOSED EXCEPT AS  
AUTHORIZED BY COURT ORDER**

### **RESERVATION OF RIGHTS**

These responses are made subject to, and without waiver of, the reservation of rights and objections set forth in NatWest's Responses And Objections To Plaintiffs' Second Set of Interrogatories, dated July 5, 2011.

#### **Contention Interrogatory No. 22:**

**Do you contend that, at any time during the Relevant Period, NatWest closed any customer accounts on the basis of suspicions of terrorism or terrorist financing? If Your answer is affirmative, identify: the factual basis for closing such accounts, including whether such customer or customers had been designated as terrorists by any governmental entity, and all documents, Testimony and Witnesses supporting your contention; and all persons or entities known by You to have knowledge of relevant facts supporting Your contention. (In answering this Interrogatory, you may redact the specific name, address and other personal data such as phone number, government identification number etc.)**

#### **Response to Contention Interrogatory No. 22**

NatWest's search of its Goalkeeper system has revealed the following information concerning customer accounts that NatWest closed between January 1, 2000 and January 31, 2005 based on suspicions of terrorism or terrorist financing.

1. Name of customer: [REDACTED]

Factual basis for closing account: The relevant pages from the Goalkeeper system are attached, bearing production numbers NW219323 – NW219325.

Persons or entities potentially having knowledge of relevant facts: Douglas Hartley

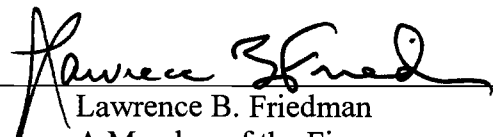
2. Name of customer: [REDACTED]

Factual basis for closing account: The relevant page from the Goalkeeper system is attached, bearing production number NW219326.

Persons or entities potentially having knowledge of relevant facts: Tony O'Hear

Dated: November 23, 2011

CLEARY GOTTlieb STEEN & HAMILTON LLP

By:   
Lawrence B. Friedman  
A Member of the Firm

One Liberty Plaza  
New York, New York 10006  
(212) 225-2000

Attorneys for Defendant National Westminster Bank Plc

**EXHIBIT 134 to Declaration of Joel Israel**

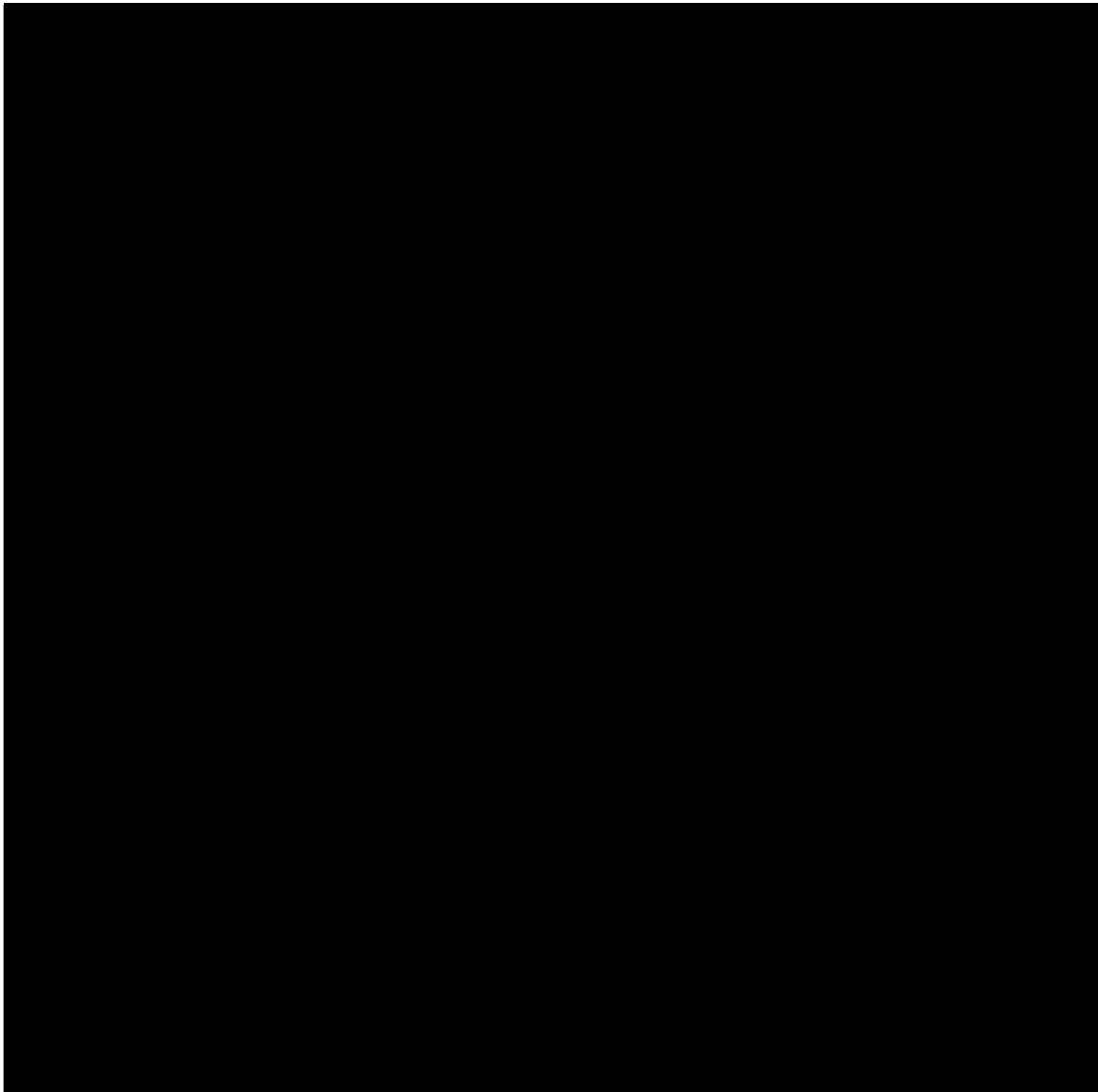
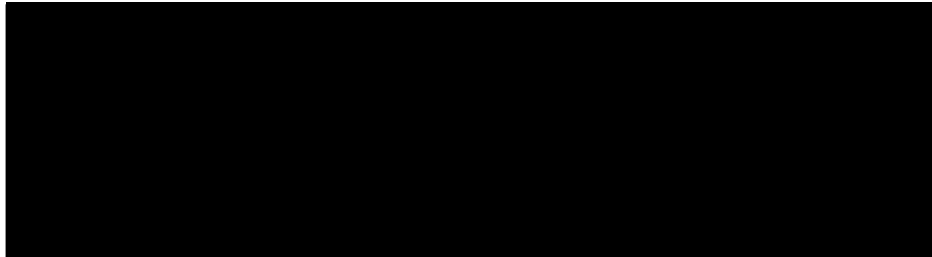
NCIS Disclosure for Case 687677 ( Received )

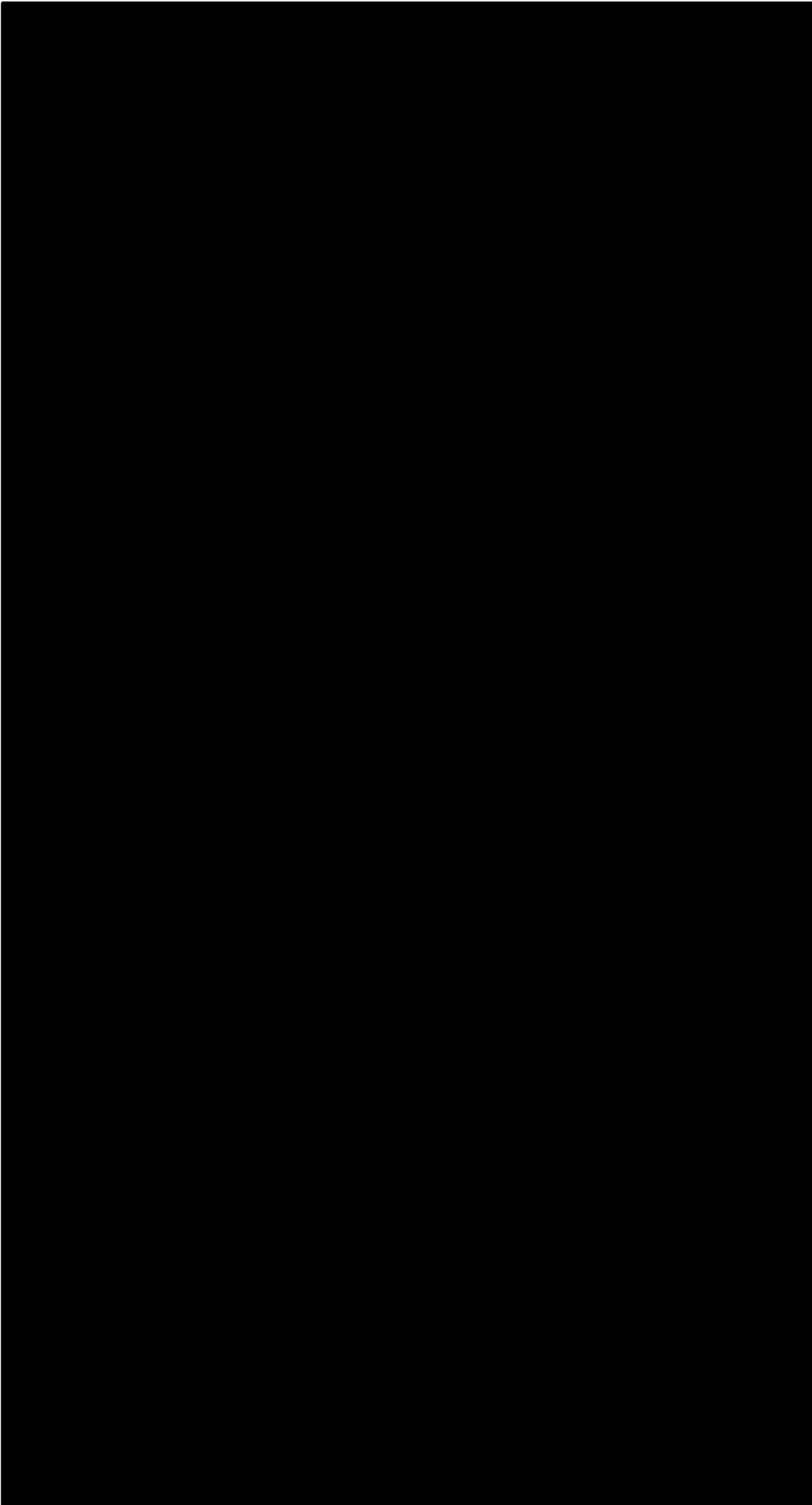
Close	Print
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Core NCIS details created on 13 Jan 2003 by RBS\Manchea [ Submitted by  
RBS\Hartida on 14-JAN-03 ]

Disclosure Type	Terrorism	Submitting Branch Address	NatWest Stratford Broadway
Disclosure Date	13 Jan 2003		
Branch / Outlet	Stratford Broadway		
Branch Code	60-20-36		
Trust Indicator	N		
Further Information	N	Postcode	

Text









NCIS Disclosure for Case 731767 ( Received )

Close

Print

Core NCIS details created on 24 Feb 2004 by EUROPA\Evansdw  
RBS\Ohearaa on 27-FEB-04 ]

[ Submitted by

Disclosure Type

Terrorism

Submitting Branch Address

GROUP  
INVESTIGATIONS &  
FRAUD

Disclosure Date

24 Feb 2004

MONEY LAUNDERING  
SUSPICION TEAM

Branch / Outlet

WIGAN

EDINBURGH

Branch Code

60-24-02

Trust Indicator

N

Further Information

Y

Postcode

Text

**EXHIBIT 135 to Declaration of Joel Israel**

## Case Summary



Delete Case		<b>Money laundering disclosure</b>		CIFAS	NCIS
<b>Case Summary</b>	Record Data	Subject Data	Notes & Conclusion	Key Corresp	

<b>Incident Data</b>		<b>Linked Cases</b>	
<b>Control Authority</b>	Group Financial Crime 1	<b>Status</b>	Closed <b>Source:</b> [GK2:779132]
<b>Review Date</b>		<b>by</b>	NONE
<b>Remote Delivery Channel</b>	N	<b>High Profile</b>	Y 25 Nov 2004 00:00
<b>Created on</b>	25 Nov 2004 00:00	<b>by</b>	EUROPA_Evansdw
<b>Last Modified on</b>	23 Dec 2004 10:56	<b>by</b>	EUROPA_brannic

698074	Business auto-linked
1284095	Phone auto-linked
1766776	Phone auto-linked
2334383	Personal auto-linked

Maintain Links

Queries	Refer To	Tel No.	Business	Unable to contact ?
	EUROPA_evansdw	0131 523 8878	Group Financial Crime 1	Yes

<b>Money laundering disclosure Record</b>	
<b>Submitting Branch</b>	GROUP FINANCIAL CRIME
<b>Submitted By</b>	DAVID EVANS
<b>Submitting Unit Sortcode</b>	
<b>Contact No</b>	0131 523 8878
<b>Submitting Department</b>	None
<b>Legislation</b>	POTA
<b>Estimated Laundering Total</b>	0 <Unknown>
<b>Reason(s) for Suspicion</b>	
High non cash turnover	
Transactions inconsistent with Banks knowledge of customer	
Suspected terrorist funding	

<b>Transactions GBP 50000.00</b>		Add	
Date	Type	Amount	Currency
Edit			

Set All Risk Ratings to the the same value of:-

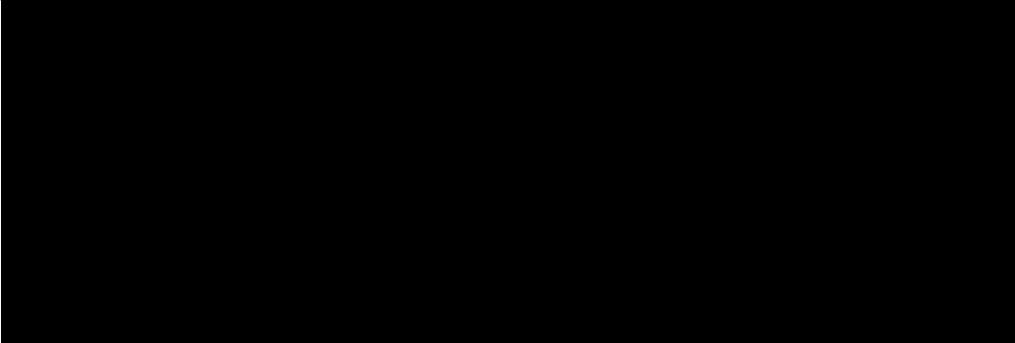
Amber	Blue	Green	Indigo	Red
-------	------	-------	--------	-----

<b>Personal Data</b>						Add
Surname	Forenames	Date Of Birth	Sex	Key Information	Risk	Adj
PATEL	ISMAIL ADAM	Redacted - Non-Responsive	M	NONE	Red	Red
						Edit

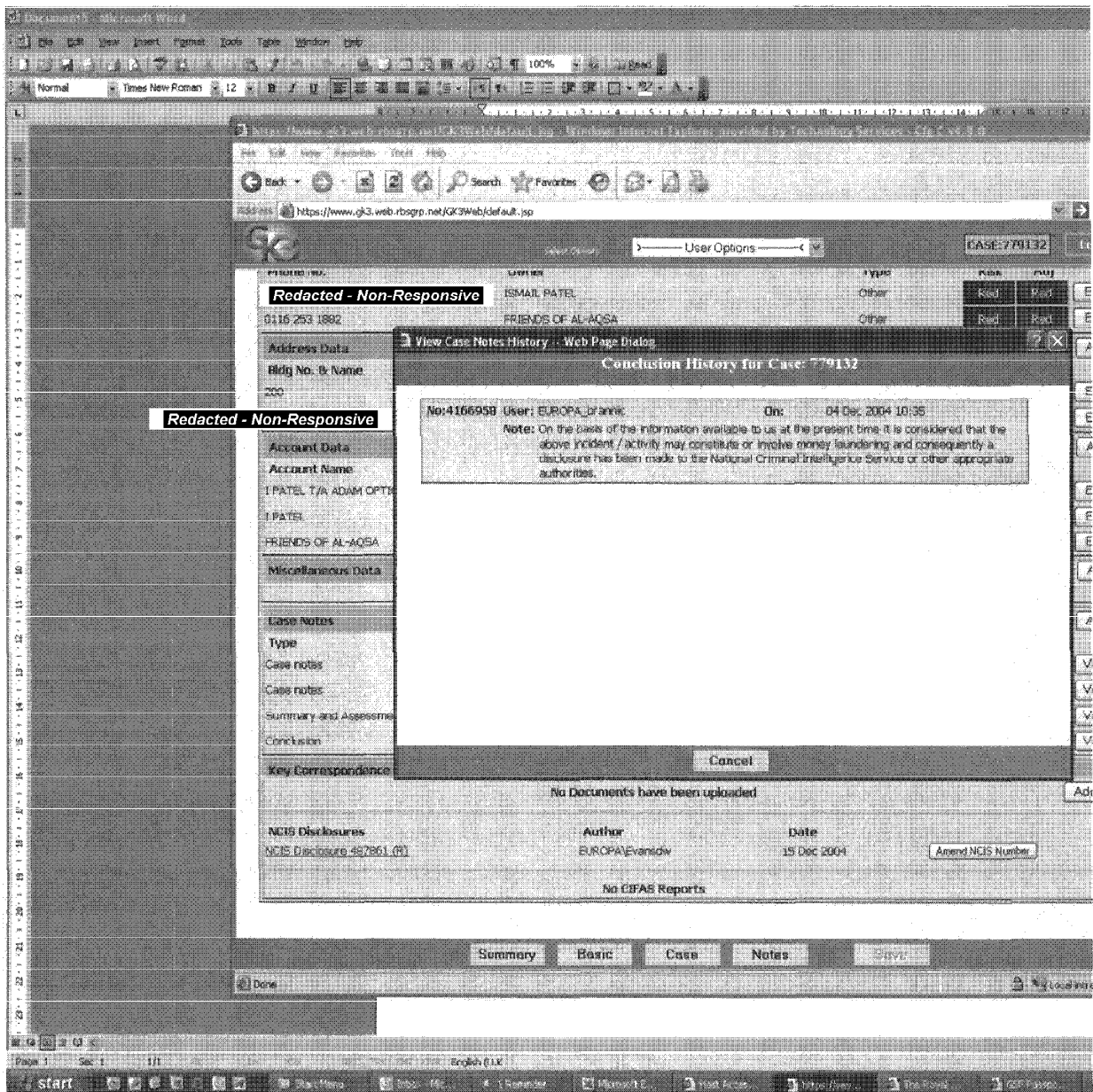
<b>Business Data</b>						Add
Business/Org Name	Company Ref. No.	Legal Jurisdiction	Key Information	Risk	Adj	

ADAMS OPTICIANS	UNITED KINGDOM	NONE	Red	Red	Edit
FRIENDS OF AL-AQSA	UNITED KINGDOM	NONE	Red	Red	Edit
<b>Telephone Data</b>					Add
<b>Phone No.</b>	<b>Owner</b>	<b>Type</b>	<b>Risk</b>	<b>Adj</b>	
Redacted - Non-Responsive	ISMAIL PATEL	Other	Red	Red	Edit
0116 253 1882	FRIENDS OF AL-AQSA	Other	Red	Red	Edit
<b>Address Data</b>					Add
<b>Bldg No. &amp; Name</b>	<b>Street</b>	<b>Town</b>	<b>Postcode</b>	<b>Risk</b>	<b>Adj</b>
200	MELBOURNE RD	LEICESTER	LE2 0DT	Red	Red
Redacted - Non-Responsive				Red	Edit
<b>Account Data</b>					Add
<b>Account Name</b>	<b>Account No.</b>	<b>Sortcode</b>	<b>Account Type</b>	<b>Currency</b>	<b>Risk</b>
I PATEL T/A ADAM OPTICIANS	Redacted - Non-Responsive		Current (Non Personal)	British Pound	Green
I PATEL	Redacted - Non-Responsive		Current (Personal)	British Pound	Green
FRIENDS OF AL-AQSA	10036370	16-23-20	Treasury	British Pound	Green
<b>Miscellaneous Data</b>					Add
-None-					
<b>Case Notes</b>					Add
<b>Type</b>	<b>Date</b>	<b>User</b>	<b>Text</b>		
Case notes	26 Nov 2004	Migrated	25/11 As the originator of this query, Rob Davies, states, t		View
Case notes	03 Dec 2004	EUROPA_brannic	Disclosure agreed but not submitted		View
Summary and Assessment	26 Nov 2004	Migrated	This customer is the contact for a business called 'Friends		View
Conclusion	04 Dec 2004	EUROPA_brannic	On the basis of the information available to us at the prese		View
<b>Key Correspondence</b>					Add
No Documents have been uploaded					
<b>NCIS Disclosures</b>	<b>Author</b>	<b>Date</b>			
NCIS Disclosure 487861 (R)	EUROPA\Evansdw	15 Dec 2004	Amend NCIS Number		
No CIFAS Reports					

<b>1. User:</b> Migrated	<b>On:</b> 26 Nov 2004 00:00	<input type="button" value="Print"/>	<input type="button" value="Copy"/>	<input type="button" value="Delete"/>
<b>Note:</b> 25/11 As the originator of this query, Rob Davies, states, this is probably not worthy of exiting at the moment, but it is certainly worthy of a disclosure, primarily for intelligence purposes. I have also completed a briefing note. DE				
<b>2. User:</b> EUROPA_brannic	<b>On:</b> 03 Dec 2004 18:14	<input type="button" value="Print"/>	<input type="button" value="Copy"/>	<input type="button" value="Delete"/>
<b>Note:</b> Disclosure agreed but not submitted				

<b>1. User:</b> Migrated	<b>On:</b> 26 Nov 2004 00:00	<input type="button" value="Print"/>	<input type="button" value="Copy"/>	<input type="button" value="Delete"/>
<b>Note:</b>				







NCIS Disclosure for Case 779132 ( Received )

Close

Print

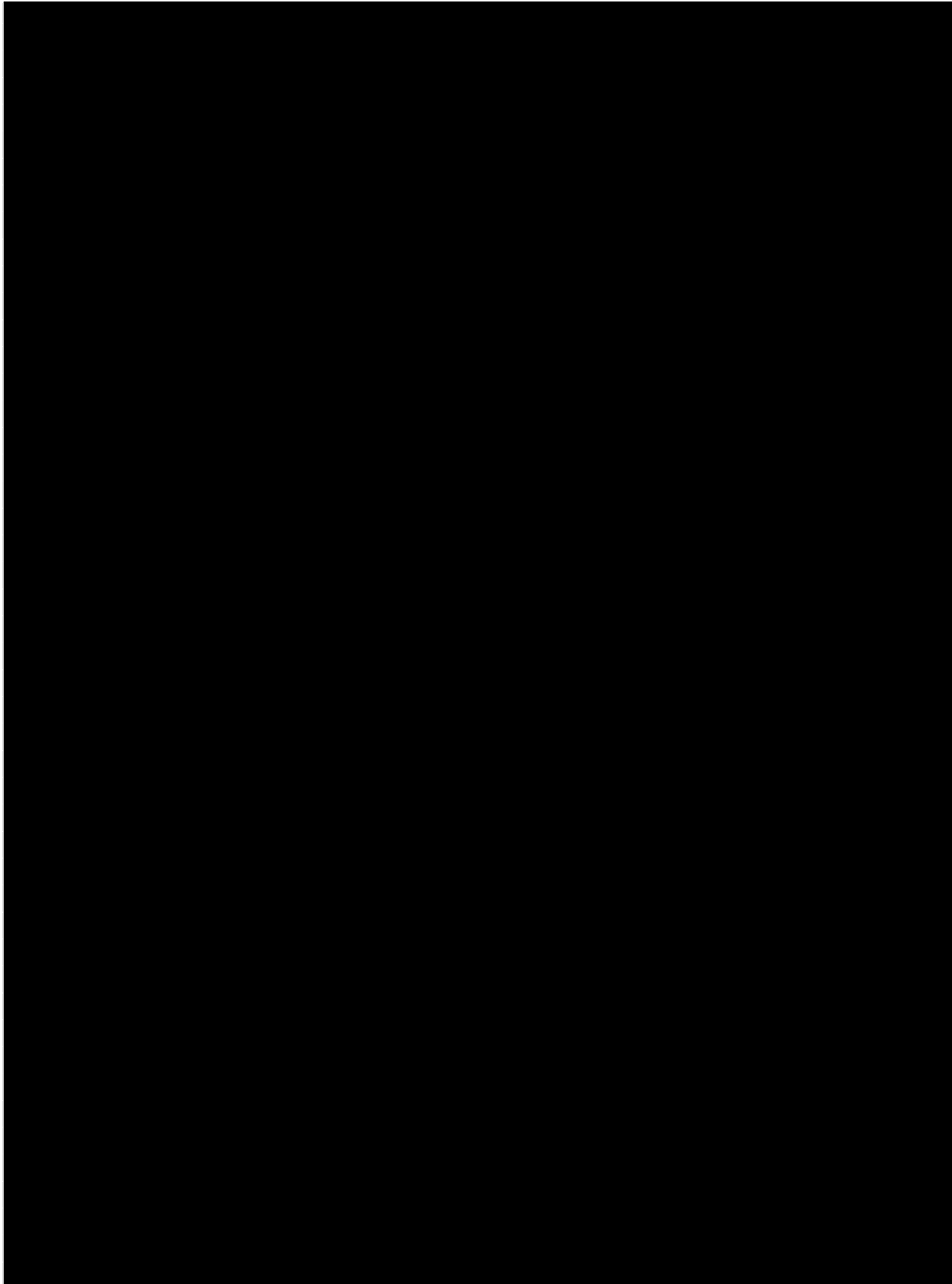
Core NCIS details created on 25 Nov 2004 by EUROPA\Evansdw  
EUROPA\_brannic on 16-DEC-04 ]

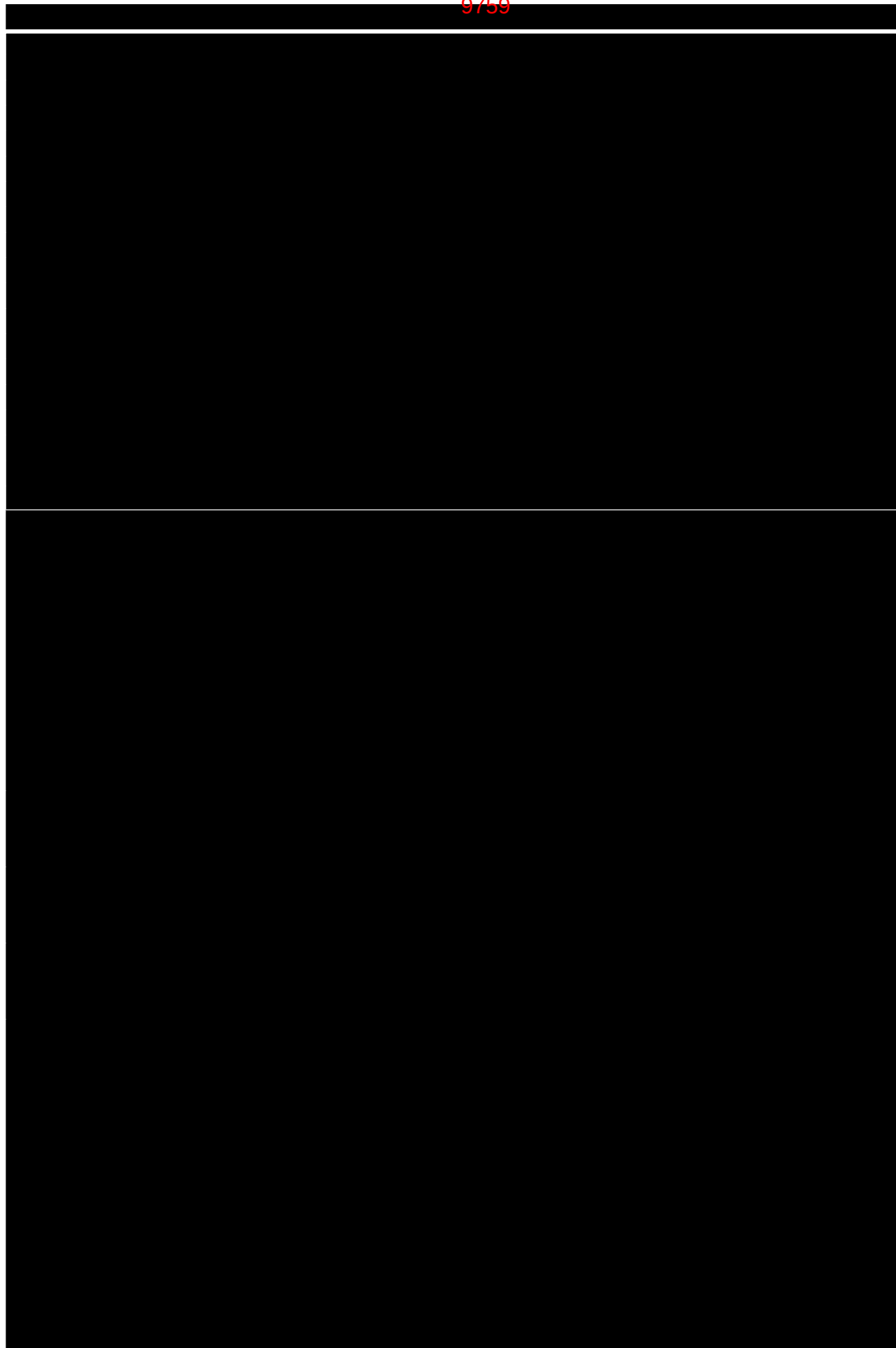
[ Submitted by

Disclosure Type	Drugs	Submitting Branch Address	ROYAL BANK OF SCOTLAND GROUP FINANCIAL CRIME
Disclosure Date	15 Dec 2004		
Branch / Outlet	LEICESTER BELGRAVE GATE		EDINBURGH
Branch Code	16-23-20		
Trust Indicator	N		
Further Information	N	Postcode	

Text

Description





**EXHIBIT 136 to Declaration of Joel Israel**

**From:** Hoseason, Michael (GFC)  
**Sent:** Thursday, January 6, 2005 8:10 AM  
**To:** Orr, James (Group Security & Fraud) <James.A.Orr@rbs.co.uk>  
**Cc:** Trantum, Neil <neil.trantum@rbs.co.uk>  
**Subject:** FW: Press Article re Closure of FoAA accounts  
**Attach:** FoAA closure article Guardian 03.01.2005.pdf;GFC briefing - Friends of Al-Aqsa779132.doc

---

Jim,

Are you happy for me to provide Mark J with a copy of the initial briefing I did for you which went to MAF.(Copy attached)

<<...>>

I have not been privy to the detail relating to subsequent developments so this will need to come from Retail I would suggest.

Mike

-----Original Message-----

**From:** JOLLY, Mark, Group Risk Mgmt

**Sent:** 06 January 2005 12:41

**To:** Hoseason, Michael (GFC); Richardson, Lesley; Mistry, Vijay

**Cc:** SANDERS, Stephen, Group Risk Mgmt; FOSTER, Stephen James, Group Risk Mgmt; HOLT, Amanda, Group Risk Mgmt (nee Turner); McAdam, Carolyn; Gannon, Ian

**Subject:** Press Article re Closure of FoAA accounts

Mike, Lesley, Vijay

#### For Information

The FSA (John Trundle) telephoned this morning having seen the attached article in the Guardian and following receipt of an official complaint from the legal advisors to Mr Patel and the FoAA. JT advised that the FSA will respond to the complaint advising that it is not within the FSA remit to engage in such issues, but was also keen to ensure that the Group was confident of the issues surrounding our decision to close the accounts. **No response** to the FSA is required at this stage.

Stephen Foster has advised that our original decision has been reversed pending provision of additional information from Mr Patel and FoAA.

Following the FSA interest in this situation, it would be helpful if a short paper could be provided to myself detailing the background to this situation. Mike/Lesley could one of you provide this for me?

Regards

*Mark*

Mark Jolly

Royal Bank of Scotland plc

Group Regulatory & Supervisory Support

Group Risk Management

5th Floor, 280 Bishopsgate

London, EC2R 4RB

Tel: 020 7085 1597

Fax: 020 7085 4813

Mobile: 07901 518867

Depot Code 028

+ ↑ <http://www.precise-media.co.uk/rbsretailbanking/pdfs/46526.pdf>

\*\*\*\*\*  
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Visit our websites at:  
<http://www.rbs.co.uk/CBFM>  
<http://www.rbsmarkets.com>

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<<.,.>

**Client:** RBS Retail Banking  
**Source:** guardian.co.uk  
**Date:** 03 January 2005  
**Page:** N/A  
**Circulation:** N/A

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## **Palestinian aid groups' accounts closed**

Two British organisations set up to help the Palestinian people have had their bank accounts abruptly closed without explanation, the Guardian has learned. Neither is proscribed by the government, and both claim that their targeting is political. The groups, Friends of Al-Aqsa (FoAA) and the Palestine Solidarity Campaign, have been asked to find alternative banking arrangements, even though neither appears on watch lists held by the Home Office or the Bank of England. The head of FoAA has also had his personal and business accounts closed. Ismail Patel, chair of the Leicester-based FoAA, said he returned from holiday this week to find a letter from the Royal Bank of Scotland saying a review had been conducted and the bank was no longer willing to provide him with facilities. He was given 30 days to transfer his three accounts. 'It came out of the blue. There's nothing I can think of that I've done differently,' he said. 'I was shocked by the letter.' Mr Patel said he had held his personal and business accounts with the bank for more than 20 years and the FoAA account for 10, without incident. He had never even been overdrawn or had any complaints from the Royal Bank of Scotland. 'I think it is a political decision - they do not think it's favourable to be associated with those of us working for the victims of Israel,' said Mr Patel. RBS said it was not obliged to discuss reasons for closing an account, and stressed due notice was offered. It declined to discuss an individual case. Mr Patel fears his organisation may have been mistaken for one with a similar name. The Bank of England asks all banks to freeze the accounts of people and organisations subject to financial sanctions. Although neither Mr Patel nor FoAA appear on the watch list, a group called the Al-Aqsa Foundation, based in the Netherlands, is named on it. 'I would have thought they would have looked at it and told us at least. It's absurd. Without the bank disclosing their reasons we don't know anything,' said Mr Patel, who is now consulting lawyers. The Palestine Solidarity Campaign also had its account withdrawn, by the Alliance & Leicester. Zoe Mars, the treasurer for the PSC, said that at the end of 2003 the group sent 750 to a medical charity in Palestine. Five months later it got a letter from its bank saying the transaction had been interrupted by the US treasury, which wanted more information on the transfer. The money eventually went through, but three months later, in July 2004, the bank decided to close its account. 'We wondered if that worried them and they feared they'd be accused of money laundering,' said Ms Mars. 'They might have thought, this is more trouble than it's worth. Anything to do with Palestine just raises fears.' A bank spokesperson said it would not discuss its reasons but added: 'I can assure you ... that the Alliance & Leicester has not closed any accounts for racial or political reasons.' The PSC has written to its members asking them to transfer their standing orders, but so far only half have done so. FoAA estimates that it will cost more than 10,000 in lost subscriptions and reprinting costs.

Guardian Unlimited

**GROUP FINANCIAL CRIME BRIEFING NOTE – CONFIDENTIAL**

**Subject:** Enquiries received by media relations from Muslim News and The Guardian regarding the bank's decision to close the accounts of **Redacted - Non-Responsive** and Friends of Al-Aqsa, held at RBS Leicester, Belgrave Gate.

**Purpose:** To advise the Executive of the background to the above enquiries received by Media Relations.

**Background:**

- Friends of Al-Aqsa first came to the attention of GFC in May 2003 when they were identified as one of a number of Muslim charities receiving donations from a **Redacted** account, which appeared to be a regular salary payment via BACS. Nonetheless, a suspicious activity report (SAR) was made to The National Criminal Intelligence Service (NCIS) for intelligence purposes due to the volume of out goings to Muslim organisations. No specific concerns regarding activity through the account of The Friends of Al-Aqsa were identified at that time
- 17<sup>th</sup> November 2004 Friends of Al-Aqsa and connected accounts were brought to the attention of Retail Compliance by Group Risk Management. Group Risk Management did not feel there was enough to warrant exiting the relationship but felt as a minimum the customer should be added to the Retail PEP monitoring programme. The e-mail was copied to the Centrally Managed Accounts Unit within GFC
- Searches of the internet had indicated that Friends of Al-Aqsa are a fairly pro-Palstinian voice in the UK with a link to The Al-Aqsa Foundation, (The Al-Aqsa Foundation are listed by both the Bank of England and OFAC) in that they co-hosted a conference in 2002. Please see attached link: <http://www.aqsa.org.uk> (Note – websense, the bank's filtering software may not permit access to this site). The Friends of Al-Aqsa website also encourages their supporters to boycott the Alliance and Leicester for closing the accounts of another similar pro-Palestinian organisation
- The activity through the Friends of Al-Aqsa account was of no specific concern with numerous small value deposits via BACS, although cheques drawn on the account were in the main illegible, which may or may not have been intentional. The activity was similar to the way in which a charity account would be expected to operate however upon checking the Charity Commission website the Friends of Al-Aqsa did not appear to be a registered charity
- Mr Patel, the key contact for the Friends of Al-Aqsa also holds a business account, **Redacted - Non-Responsive**. This account had seen some significant round amount transactions (largest **Redacted**), which was not entirely consistent with the account of an opticians. Activity through Mr Patel's personal account was unremarkable
- In view of the above GFC submitted a further SAR to NCIS on 15<sup>th</sup> December 2004 highlighting all three accounts for intelligence purposes
- Retail Compliance, having independently reviewed the accounts took the decision to exit the entire relationship, a decision which was conveyed to Mr Patel via his business manager in letters dated 9<sup>th</sup> December 2004
- On 24<sup>th</sup> December 2004 Mr Patel replied to his business manager requesting:
  - a period of 3 months in which to make alternative banking arrangements
  - to know the basis on which he was no longer considered suitable for a bank account
  - details of the banking appeals process
- On 29<sup>th</sup> December 2004 media Relations received enquiries from both The Guardian and Muslim News, the latter making allegations about RBS targeting any supporters of the Palestinian cause Please see attached e-mail from Media Relations

FW Media calls from  
Muslim News and The

Mike Hoseason  
Group Financial Crime  
0207 714 4519  
29 December 2004



**EXHIBIT 137 to Declaration of Joel Israel**

**From:** Hemsley, Richard (Director, Group Security and Fraud)  
**Sent:** Wednesday, January 5, 2005 11:07 AM  
**To:** HOLT, Amanda, Group Risk Mgmt (nee Turner) <Amanda.HOLT@rbos.com>  
**Subject:** FW: Possible Demonstation at 42 SAS

---

Amanda

As discussed. Stephen Foster also has the Threat Assessment from SIU that goes along with this. We have additional guarding in place at 42 SAS, 36 SAS and the two key locations in Leicester. We will also have on site representation from GSM in Leicester and Edinburgh.

Richard

---

**From:** Orr, James (Group Security & Fraud)  
**Sent:** 05 January 2005 11:47  
**To:** Hemsley, Richard (Director, Group Security and Fraud)  
**Subject:** RE: Possible Demonstation at 42 SAS  
**Importance:** High

Richard

Mike Hoseason has been unable to contact David Outhwaite. However, in speaking with Leslie Richardson, Retail Compliance, he learned that at the Morning Meeting today, the exit decision in relation to Mr Patel was overturned subject to 'satisfaction regarding certain transactions'. Also, that Feilim Mackle had discussed the issue with Sir Fred.

I believe that Watson's team - Graham Vance - should undertake the briefing and prepare an appropriate operational response to provide clarity - supported by an initial intelligence assessment and updates from the SIU. As usual, Media Relations will need to consider an 'if asked' press release.

Jim

-----Original Message-----

**From:** Hemsley, Richard (Director, Group Security and Fraud)  
**Sent:** 05 January 2005 07:46  
**To:** Orr, James (Group Security & Fraud)  
**Subject:** RE:

Jim

Can you double check for me that someone (David Outhwaite?) has picked up with Feilim Mackle regarding 42 SAS. Having said this I am not sure that Feilim is the right person; I am not sure that he works in 42 (he may have moved over there recently). You may feel that it is the role of Watson's team to undertake the briefing and I would support that, perhaps supported by those that have been involved longer. Watson has Graham Vance on the case.

Richard

-----Original Message-----

**From:** Orr, James (Group Security & Fraud)  
**Sent:** 04 January 2005 21:00

To: Couzens, Michael  
Cc: Hemsley, Richard (Director, Group Security and Fraud); Mcateer, Watson (GSM); Hoseason, Michael (GFC)  
Subject: Re:

Mike

For you information. Mike Hoseason can provide you with copies of all relevant e-mail traffic. In regard to the alleged demonstration, an intelligence assessment would be appreciated (disregard if already in hand). Thanks.

Jim  
JAMES ORR

Group Head of Financial Crime  
The Royal Bank of Scotland Group  
Tel: 0131 523 8939  
Mob: 07795 237770  
Fax: 0131 523 8798

E-mail: James.A.Orr@rbs.co.uk

If you would like to know more about Group Financial Crime, please access the Intranet link below:

<http://www.manufacturing.rbs.co.uk/gsf/GFC/default.asp>

-----Original Message-----

From: Outhwaite, David <David.Outhwaite@rbs.co.uk>  
To: Hoseason, Michael (GFC) <michael.hoseason@rbs.co.uk>  
CC: Hemsley, Richard (Director, Group Security and Fraud) <Richard.Hemsley@rbs.co.uk>; Orr, James (Group Security & Fraud) <James.A.Orr@rbs.co.uk>; Mcateer, Watson (GSM) <Watson.Mcateer@rbs.co.uk>

Sent: Tue Jan 04 17:41:31 2005  
Subject: RE:

Feilim Mackle is probably the best person to take this forward.

David

-----Original Message-----

From: Hoseason, Michael (GFC)  
Sent: Tuesday, January 04, 2005 5:20 PM  
To: Outhwaite, David  
Cc: Hemsley, Richard (Director, Group Security and Fraud); Orr, James (Group Security & Fraud); Mcateer, Watson (GSM)

Subject: RE:

David.

Thank you for the update.

Given the threat of a demonstration at 42 St Andrew Sq. on Friday Group Security Management have been briefed to ensure security are up to speed but can you confirm Group Communications have/will be briefing the Exec / other staff @ 42 St Andrew Sq and do they expect any special guests / visitors that day?

Thanks and regards

Mike Hoseason  
Group Financial Crime  
7th Floor, 1 Princes Street  
London, EC2R 8PB  
Tel: 020 7714 4519  
Mobile: 07899 746970

-----Original Message-----

From: Outhwaite, David  
Sent: 03 January 2005 22:23  
To: McAdam, Carolyn; Thomson, Agnes; CLARK, Graham, Streamline FF; Hoseason, Michael (GFC); Mackle, Feilim  
Cc: Outhwaite, David  
Subject: Fw:

For your information, our customer is intending to ensure that our decision here gets as wide coverage as possible.

So far only the edinburgh evening news, whilst many nationals will probably see this as one customer with a grudge, we need to ensure we are consistent across media, customer relations and branches in Leicester.

David

-----Original Message-----

From: david outhwaite <davidouth@yahoo.com>  
To: Outhwaite, David <David.Outhwaite@rbs.co.uk>  
Sent: Mon Jan 03 21:00:32 2005  
Subject:

\*\*\* WARNING : This message originates from the Internet \*\*\*

The decision to ask the customer to find alternative bankers was based entirely on business reasons. We strongly refute the allegations being made against the bank. RBS has a first rate track record in providing banking services to all parts of the community.'

-----Original Message-----

From: Alan Roden <aroden@scotsman.com>  
To: Outhwaite, David <David.Outhwaite@rbs.co.uk>  
Sent: Mon Jan 03 15:25:52 2005  
Subject: Friends of Al-Aqsa

\*\*\* WARNING : This message originates from the Internet \*\*\*

As discussed.  
Alan.

Press release  
Attention: News desk / Business editor  
Mon 3 January 2005  
For immediate use

RBS being used as "tool" for pro-Israeli lobby

Protests planned outside bank's Edinburgh HQ over closure of pro-Palestinian group accounts

Protests have been planned against the Royal Bank of Scotland after it emerged that the bank had closed down the accounts of a leading pro-Palestinian group.

The Leicester-based Friends of Al-Aqsa (FoAA) received a curt letter from RBS explaining that they "no longer wished to provide banking facilities to you" and "were unwilling to enter into any further discussion with you on this matter (sic)".

The closure also affected FoAA Chairman Ismail Patel's personal and business accounts, which had been with the RBS for 24 years.

The decision has been condemned as politically motivated in favour of the pro-Israeli lobby.

Commenting Osama Saeed, Scottish spokesperson for MAB said:

"It appears the Royal Bank of Scotland is being used as a tool against those that express sympathy with Israel's victims. No bank or institution should be allowed to get away with such anti-Palestinian or anti-Muslim bias."

FoAA Chair Ismail Patel called upon individuals and organisations to protest at what he calls the bank's "harassment and

intimidation":

"The very fact that we have been given no indication whatsoever of the reasons for the bank's outrageous decision suggests that the Royal Bank has something to hide."

Patel cited the recent case of the Alliance and Leicester shutting the Palestine Solidarity Campaign's account in London as evidence which for "the belief that the banks are bending to the pressure of Zionist lobby groups in what is a new and sinister twist to the ongoing struggle over the situation in the Holy Land."

Calls to Scotland Yard confirmed there was no legal or security reason behind the closure, while the accounts have always been in credit.

MAB and the Scottish Palestine Solidarity Campaign (SPSC) have confirmed

they will be protesting at the RBS HQ in Edinburgh at 2pm this Friday over the issue, at the same time as FoAA have planned one outside the bank's Leicester branch.

For more information please contact Osama Saeed on  
07813-036238

Alan Roden  
Edinburgh Evening News  
News Reporter  
(0131) 620 8746  
(0131) 620 8696 (fax)  
[www.edinburghnews.com](http://www.edinburghnews.com)

---

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**EXHIBIT 138 to Declaration of Joel Israel**



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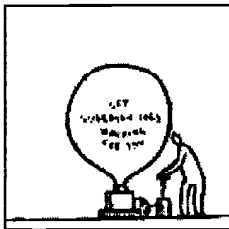
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The Guardian	World	US elections	Arts	News guide	Columnists	Audio	Help	Quiz

UK news

## Palestinian aid groups' accounts closed

Faisal al Yafai  
Monday January 3, 2005  
[The Guardian](#)

Search this site



Two British organisations set up to help the Palestinian people have had their bank accounts abruptly closed without explanation, the Guardian has learned. Neither is proscribed by the government, and both claim that their targeting is political.

The groups, Friends of Al-Aqsa (FoAA) and the Palestine Solidarity Campaign, have been asked to find alternative banking arrangements, even though neither appears on watch lists held by the Home Office or the Bank of England. The head of FoAA has also had his personal and business accounts closed.

Ismail Patel, chair of the Leicester-based FoAA, said he returned from holiday this week to find a letter from the Royal Bank of Scotland saying a review had been conducted and the bank was no longer willing to provide him with facilities. He was given 30 days to transfer his three accounts.

"It came out of the blue. There's nothing I can think of that I've done differently," he said. "I was shocked by the letter."

Mr Patel said he had held his personal and business accounts with the bank for more than 20 years and the FoAA account for 10, without incident. He had never even been overdrawn or had any complaints from the Royal Bank of Scotland.

"I think it is a political decision - they do not think it's favourable to be associated with those of us working for the victims of Israel," said Mr Patel.

RBS said it was not obliged to discuss reasons for closing an account, and stressed due notice was offered. It declined to discuss an individual case.

Mr Patel fears his organisation may have been mistaken for one with a similar name.

The Bank of England asks all banks to freeze the accounts of people and organisations subject to financial sanctions. Although neither Mr Patel nor

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FoAA appear on the watch list, a group called the Al-Aqsa Foundation, based in the Netherlands, is named on it.

"I would have thought they would have looked at it and told us at least. It's absurd. Without the bank disclosing their reasons we don't know anything," said Mr Patel, who is now consulting lawyers.

The Palestine Solidarity Campaign also had its account withdrawn, by the Alliance & Leicester.

Zoe Mars, the treasurer for the PSC, said that at the end of 2003 the group sent £750 to a medical charity in Palestine. Five months later it got a letter from its bank saying the transaction had been interrupted by the US treasury, which wanted more information on the transfer.

The money eventually went through, but three months later, in July 2004, the bank decided to close its account.

"We wondered if that worried them and they feared they'd be accused of money laundering," said Ms Mars. "They might have thought, this is more trouble than it's worth. Anything to do with Palestine just raises fears."

A bank spokesperson said it would not discuss its reasons but added: "I can assure you ... that the Alliance & Leicester has not closed any accounts for racial or political reasons."

The PSC has written to its members asking them to transfer their standing orders, but so far only half have done so.

FoAA estimates that it will cost more than £10,000 in lost subscriptions and reprinting costs.

Check out the new diet products on the market. Something for coral-calcium-one.com  
The Online Slimming Club Weight loss club providing personalised diet programs...  
onlineslimmingclub.co.uk

#### In this section

Hoaxer's emails said missing loved ones were dead

UK news in brief

Anti-bullying group 'gagging members'

Reed cutters fight back as imports from east cut into a dying craft

Girl's death 'may be drug-related'

Tesco project gets Gerrards really Cross

Man held on Amy killing freed

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Daily sections

Weekly sections

Report reveals birds' lengthy  
lives

Bank's 'technical glitches'  
dampen shoppers' sales  
spree

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**EXHIBIT 139 to Declaration of Joel Israel**

## Unknown

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**From:** RODGER, Irvine, CBFM Enterprise Risk  
**Sent:** Thursday, January 06, 2005 11:06 AM  
**To:** COLE, Guy, CBFM Enterprise Risk; LOVE, Kevin, CBFM  
**Subject:** RE: RBS CBFM

I asked Retail Compliance about this yesterday but they have no responded to me...

Irvine Rodger  
CBFM MLPU  
The Royal Bank of Scotland plc  
135 Bishopsgate, London, EC2M 3UR (Depot 028)  
Tel: (020) 7085 1082  
Int: 361082  
Fax: (020) 7085 4641  
e: [HYPERLINK "mailto:irvine.rodger@rbos.com"irvine.rodger@rbos.com](mailto:irvine.rodger@rbos.com)

-----Original Message-----

**From:** COLE, Guy, CBFM Enterprise Risk  
**Sent:** 06 January 2005 15:31  
**To:** COLE, Guy, CBFM Enterprise Risk; RODGER, Irvine, CBFM Enterprise Risk; LOVE, Kevin, CBFM  
**Subject:** RE: RBS CBFM

In addition to the below, I was speaking to Rob Davies today and mentioned this exit, he told me that the accounts are held in Retail and Retail took the decision to exit independently from GER.

Guy Cole  
CBFM Money Laundering Prevent Unit  
The Royal Bank of Scotland  
135 Bishopsgate, London, EC2M 3UR  
Tel. (020) 7085 5433  
Internal 76572 365433  
Fax. (020) 7085 4641  
<<mailto:Guy.Cole@rbos.com>>  
CBFM MLPU Website: <http://cbfmweb.fm.rbsgrp.net/cbfmmlpu/> (Answers to many frequently asked questions can be found on this website)

-----Original Message-----

**From:** COLE, Guy, CBFM Enterprise Risk  
**Sent:** 06 January 2005 10:34  
**To:** RODGER, Irvine, CBFM Enterprise Risk; LOVE, Kevin, CBFM  
**Subject:** RE: RBS CBFM

Kevin/Irvine

I have checked Goalkeeper and record 779132 relates to this relationship. The record case notes summarise as follows, Rob Davies in GER raised a query concerning this relationship and advised that the customer had held in 2002 a joint conference with The Al Aqsa Foundation (a Bank of England listed terrorist organisation), Rob advised that it was not worthy to exit, but should be reported to NCIS for intelligence purposes. No other information in relation to exiting is recorded and the record status is closed.

Regards

Guy

Guy Cole  
CBFM Money Laundering Prevent Unit  
The Royal Bank of Scotland  
135 Bishopsgate, London, EC2M 3UR

Tel. (020) 7085 5433  
Internal 76572 365433  
Fax. (020) 7085 4641  
<mailto:Guy.Cole@rbos.com>

CBFM MLPU Website: <http://cbfmweb.fm.rbsgrp.net/cbfmmlpu/> (Answers to many frequently asked questions can be found on this website)

-----Original Message-----

From: RODGER, Irvine, CBFM Enterprise Risk  
Sent: 05 January 2005 09:54  
To: LOVE, Kevin, CBFM  
Cc: COLE, Guy, CBFM Enterprise Risk  
Subject: RE: RBS CBFM

Kevin

This must be a Retail account. GER maybe tried to bully them to exit, even though there are no EU/OFAC sanctions.

It does show that the Group is dysfunctional if its Palestinian linkage was the reason for exit and CBFM rightly keeps Interpal going when it could be argued, there are greater grounds.

Cheers

Irvine Rodger  
CBFM MLPU  
The Royal Bank of Scotland plc  
135 Bishopsgate, London, EC2M 3UR (Depot 028)  
Tel: (020) 7085 1082  
Int: 361082  
Fax: (020) 7085 4641  
e: [HYPERLINK "mailto:irvine.rodger@rbos.com"irvine.rodger@rbos.com](mailto:HYPERLINK \)

-----Original Message-----

From: LOVE, Kevin, CBFM  
Sent: 05 January 2005 09:41  
To: RODGER, Irvine, CBFM Enterprise Risk  
Subject: FW: RBS CBFM  
Importance: High

Irvine,  
Please see the article "Bank Row With Palestinian Group". Would welcome your thoughts given all the discussion around Interpal. Should we highlight this to Stephen?

Cheers

Kevin R. Love  
Global Head of Enterprise Risk  
Corporate Banking & Financial Markets  
The Royal Bank of Scotland Group Plc  
[HYPERLINK "mailto:kevin.love@rbos.com"kevin.love@rbos.com](mailto:HYPERLINK \)  
Work: +44 20 7085 4026 Mobile: +44 7769 931630  
Pager: +44 7693 308651 Blackberry: +44 7793 858329

-----Original Message-----

From: Parker, Murray  
Sent: 05 January 2005 09:22  
To: # CBFM Press Cuttings  
Subject: FW: RBS CBFM

-----Original Message-----

From: Precise Media Monitoring [HYPERLINK "mailto:\[SMTP:info@precise-media.co.uk\]\"\[SMTP:info@precise-media.co.uk\]](mailto:HYPERLINK \)

Sent: 05 January 2005 07:37  
Subject: RBS CBFM press cvoerage 050105

\*\*\* WARNING : This message originates from the Internet \*\*\*

RBS CBFM  
05/01/05

Daily Summary <[http://www.precise-media.co.uk/rbscbfm/pdfs/DailySummary\\_512005.Pdf](http://www.precise-media.co.uk/rbscbfm/pdfs/DailySummary_512005.Pdf)>

Johnson buys Dewhirst corporate wear business for GBP22.5m  
Financial Times, 05/01/2005  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50595.pdf>>

Johnson buys Dewhirst business  
The Independent, 05/01/2005  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50596.pdf>>

Lenders back ExxonMobil/Qatar project in Wales to tune of GBP420m  
Lloyd's List, 05/01/2005  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50597.pdf>>

Menzies bought by Japanese  
The Birmingham Post, 04/01/2005  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50598.pdf>>

Japanese group buys hotel chain  
Yorkshire Post, 04/01/2005  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50599.pdf>>

RBS EXPLOITS OPPORTUNITIES LEFT BY LETTERBOX BAN  
Funds Europe, 01/01/2005  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50600.pdf>>

Project finance  
International Trade Finance, 01/12/2004  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50601.pdf>>

GBP20bn buyout boom is forecast  
Nottingham Evening Post, 05/01/2005  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50602.pdf>>

Enjoy it... while it lasts  
Corporate Finance, 01/12/2004  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50603.pdf>>

The gilt edged solution  
Structured Finance International, 01/11/2004  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50604.pdf>>

Housing is 'biggest threat'  
Metro, 04/01/2005  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50605.pdf>>

House price fall 'is biggest threat to economy'  
The Birmingham Post, 04/01/2005  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50606.pdf>>

House price fall warning  
Daily Record, 04/01/2005  
image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50607.pdf>>

Banks reassuring investors over IAS

Financial Times, 05/01/2005

image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50608.pdf>>

Bank row with Palestine group

The Herald (Glasgow), 04/01/2005

image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50609.pdf>>

Fattest pay packets for those at helm of private companies

The Herald (Glasgow), 04/01/2005

image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50610.pdf>>

US probes Scots bankers' links to Enron scandal

Belfast Telegraph, 31/12/2004

image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50611.pdf>>

Workers lose their holidays

Burton Mail, 28/12/2004

image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50612.pdf>>

Appointment of chief economist

Peterborough Evening Telegraph, 28/12/2004

image <<http://www.precise-media.co.uk/rbscbfm/pdfs/50613.pdf>>

**EXHIBIT 140 to Declaration of Joel Israel**



**From:** FOSTER, Stephen James, Group Risk Mgmt  
**Sent:** Wednesday, January 5, 2005 2:48 AM  
**To:** Gannon, Ian <Ian.A.Gannon@rbs.co.uk>; DAVIES, Rob, Group Risk Mgmt <Rob.DAVIES@rbs.com>  
**Cc:** NORRIE, Ben, Group Risk Mgmt <Ben.NORRIE@rbs.com>; RILEY, Claire, (GS&F AML) <Claire.RILEY@rbs.com>; HOLT, Amanda, Group Risk Mgmt (nee Turner) <Amanda.HOLT@rbs.com>; Norman, John <John.Norman@rbs.co.uk>; Richardson, Lesley <Lesley.Richardson@rbs.co.uk>  
**Subject:** RE: Friends of Al-Aqsa

---

Ian, Lesley, can you please make sure we are in the loop on discussions and decisions on matters such as this, particularly when the Group is dealing with alleged terrorist activities, as we may have information relevant to the discussions and may decide we need to be telling the Bank of England. We can't do that if we don't know.

Thank you.

-----Original Message-----

**From:** Gannon, Ian  
**Sent:** 04 January 2005 16:08  
**To:** DAVIES, Rob, Group Risk Mgmt  
**Cc:** NORRIE, Ben, Group Risk Mgmt; FOSTER, Stephen James, Group Risk Mgmt; RILEY, Claire, Group Risk Mgmt; HOLT, Amanda, Group Risk Mgmt (nee Turner); Norman, John; Richardson, Lesley  
**Subject:** RE: Friends of Al-Aqsa

Thanks Rob.

Press Office are already aware and Feilim Mackle is co-ordinating activity for Sir Fred.

Regards

Ian

*Ian Gannon*

Retail Compliance  
\* Lochside House, South Gyle, Edinburgh  
DEPOT CODE 045  
) Tel : 0131 523 4143 (ext 224143)  
) Mob: 07768 615931  
8 E Mail: [ian.a.gannon@rbs.co.uk](mailto:ian.a.gannon@rbs.co.uk)  
Retail Compliance intranet site: <http://www.retail.rbs.co.uk/Compliance/default.asp>

-----Original Message-----

**From:** DAVIES, Rob, Group Risk Mgmt  
**Sent:** Tuesday, January 04, 2005 4:01 PM  
**To:** Gannon, Ian  
**Cc:** NORRIE, Ben, Group Risk Mgmt; FOSTER, Stephen James, Group Risk Mgmt; RILEY, Claire, Group Risk Mgmt; HOLT, Amanda, Group Risk Mgmt (nee Turner)  
**Subject:** RE: Friends of Al-Aqsa

Thanks Ian,

I think you may need to notify the Press Office on this if you haven't already done so. The Al-Aqsa website has changed to include a link to a Guardian news article:

<[http://money.guardian.co.uk/news\\_/story/0,1456,1382497,00.html](http://money.guardian.co.uk/news_/story/0,1456,1382497,00.html)>

Regards  
Rob

-----Original Message-----

**From:** Gannon, Ian  
**Sent:** 04 January 2005 13:01  
**To:** DAVIES, Rob, Group Risk Mgmt  
**Cc:** NORRIE, Ben, Group Risk Mgmt  
**Subject:** RE: Friends of Al-Aqsa

Rob,

This was a Retail Compliance decision based on reputational risk to the business given the background to this case. We had liaised with GFC on this who shared our view.

If you require further detail, please give me a call

Regards

Ian

*Ian Gannon*

Retail Compliance  
\* Lochside House, South Gyle, Edinburgh  
DEPOT CODE 045  
) Tel : 0131 523 4143 (ext 224143)  
) Mob: 07768 615931  
8 E Mail: [ian.a.gannon@rbs.co.uk](mailto:ian.a.gannon@rbs.co.uk)  
Retail Compliance intranet site: <<http://www.retail.rbs.co.uk/Compliance/default.asp>>

-----Original Message-----

**From:** DAVIES, Rob, Group Risk Mgmt  
**Sent:** Tuesday, January 04, 2005 12:00 PM  
**To:** Gannon, Ian  
**Cc:** NORRIE, Ben, Group Risk Mgmt  
**Subject:** FW: Friends of Al-Aqsa

Ian,

I thought it easier to send you some screen prints in a word document rather than fax. Please let me know if you still require the faxed copies.

You may be aware that there are now RBS and Natwest logos on the website's homepage stating that their accounts have been exited. We were unaware that this decision had been made, was there a formal decision made by Retail Compliance? There is also a 'complaints' email address of an RBS employee.

Thanks,  
Rob

-----Original Message-----

**From:** DAVIES, Rob, Group Risk Mgmt  
**Sent:** 17 November 2004 15:02  
**To:** Aitken, Phil  
**Cc:** NORRIE, Ben, Group Risk Mgmt; RILEY, Claire, Group Risk Mgmt; FOSTER, Stephen James, Group Risk Mgmt; RIBBON, John, Group Risk Mgmt; Brand, Derek  
**Subject:** Friends of Al-Aqsa

Phil,

I have been reviewing the following retail accounts and felt it was appropriate to make you aware of the relationship:

**Friends of Al-Aqsa** (Mr Ismail Patel)  
BSB: 16-23-20  
Acct: 10036370

Linked accounts:

### *Redacted - Non-Responsive*

From the internet it can be seen that Friends of Al-Aqsa are a fairly prominent Pro-Palestine voice in the UK. My initial concern was the similarity in names to a BoE and OFAC listed organisation called The Al-Aqsa Foundation. I subsequently found a potential link between the 2 organisations, where they jointly hosted a conference back in 2002:

<<<http://www.aqsa.org.uk/JournalsDetail.aspx?id=57>>>

<<<http://www.hvk.org/articles/0603/64.html>>>

I have copies of bank statements for the above accounts going back approx. 12 months. The Friends of Al-Aqsa accounts have small value deposits from various parties and then fairly regular cheques leaving the account, similar to the way a charity would operate. (I have checked the charity commission website and Friends of Al-Aqsa does not appear to be a registered charity)

The *Redacted - Non-Responsive* account has several large value, round number figures (largest £100,000) withdrawn from the account, which potentially could be suspicious in themselves.

The personal account for *Redacted - Non-Responsive* does not appear to have any suspicious activity

It should also be noted that Friends of Al-Aqsa are encouraging their supporters to boycott Alliance & Lester for closing the accounts of another similar Pro-Palestine organisation, so I assume they would follow the same course of action against RBS <[http://www.aqsa.org.uk/page\\_detail.aspx?id=26](http://www.aqsa.org.uk/page_detail.aspx?id=26)>

Whilst I dont feel there is enough for us to exit the relationship, **we do feel that as a minimum we should consider adding this customer to the PEP monitoring program.**

Look forward to hearing your thoughts.

Regards, Rob Davies

\*\*\*\*\*

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\*\*\*\*\*

<< File: Friends of Al-Asa screen prints.doc >>

**EXHIBIT 141 to Declaration of Joel Israel**

## Unknown

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**From:** RODGER, Irvine, CBFM Enterprise Risk  
**Sent:** Friday, January 07, 2005 6:52 AM  
**To:** COLE, Guy, MLPU; ZZLOVE, Kevin. Corporate Markets  
**Subject:** FW: RBS CBFM

Guy/Kevin

Retail has confirmed its exit of the Palestinian charity.

Regards

Irvine Rodger  
CBFM MLPU  
The Royal Bank of Scotland plc  
135 Bishopsgate, London, EC2M 3UR (Depot 028)  
Tel: (020) 7085 1082  
Int: 361082  
Fax: (020) 7085 4641  
e: [HYPERLINK "mailto:irvine.rodger@rbos.com"irvine.rodger@rbos.com](mailto:HYPERLINK \)

-----Original Message-----

**From:** Feachen, David  
**Sent:** 07 January 2005 11:40  
**To:** RODGER, Irvine, CBFM Enterprise Risk  
**Subject:** RE: RBS CBFM

Irvine,  
as I thought, this hit the fan on Tuesday of this week, and can confirm Retail have taken steps to exit.

I'll hold you to lunch, as long as it is not in one of the canteens.

David Feachen  
Retail Compliance  
Lochside House

Depot Code 045

+ email : [david.feachen@rbs.co.uk](mailto:david.feachen@rbs.co.uk)  
( 221549/ 0131 525 1549  
<http://www.retail.rbs.co.uk/Compliance/default.asp>

-----Original Message-----

**From:** RODGER, Irvine, CBFM Enterprise Risk  
**Sent:** Friday, January 07, 2005 11:15 AM  
**To:** Feachen, David  
**Subject:** RE: RBS CBFM

David

The link is a pain. You need to have the browser open and then click on the word "precise". My colleague, Guy Cole has made some other enquiries - his views are attached.

<< Message: RE: RBS CBFM >>

Our relationship is mainly with retail so it may be good if we could meet for lunch one of these times that you are next in London.

Thanks

Irvine Rodger  
CBFM MLPU  
The Royal Bank of Scotland plc  
135 Bishopsgate, London, EC2M 3UR (Depot 028)  
Tel: (020) 7085 1082  
Int: 361082  
Fax: (020) 7085 4641  
e: irvine.rodger@rbos.com <mailto:irvine.rodger@rbos.com>

-----Original Message-----

From: Feachen, David  
Sent: 07 January 2005 10:54  
To: RODGER, Irvine, CBFM Enterprise Risk  
Subject: RE: RBS CBFM

apologies, Irvine

I have been out of the office for the last couple of days.

I cannot access any of the attached URLs, can you confirm to me where we are with this account, what is the account number and sort code and I'll advise.

It may be that this has already surfaced and been dealt with, as there was some noise regarding a Palestinian organisation that was alleged to be funding suicide bombers at the beginning of the week.

David Feachen  
Retail Compliance  
Lochside House

Depot Code 045

+ email : david.feachen@rbs.co.uk  
( 221549/ 0131 525 1549  
<<http://www.retail.rbs.co.uk/Compliance/default.asp>>

-----Original Message-----

From: RODGER, Irvine, CBFM Enterprise Risk  
Sent: Wednesday, January 05, 2005 10:04 AM  
To: Feachen, David  
Subject: FW: RBS CBFM  
Importance: High

David

In Phil's absence

Irvine Rodger  
CBFM MLPU  
The Royal Bank of Scotland plc  
135 Bishopsgate, London, EC2M 3UR (Depot 028)  
Tel: (020) 7085 1082  
Int: 361082  
Fax: (020) 7085 4641  
e: irvine.rodger@rbos.com <<mailto:irvine.rodger@rbos.com>>

-----Original Message-----

From: RODGER, Irvine, CBFM Enterprise Risk  
Sent: 05 January 2005 10:01  
To: Aitken, Phil

Subject: FW: RBS CBFM  
Importance: High

Phil

Not sure if you are the right person but is this account Retail's? I ask because we have mounted an investigation into another Palestinian charity, Interpal, which is subject to OFAC sanctions (though not EU), and decided that the account is operating satisfactorily and that the OFAC sanctions were politically inspired. Johnny Cameron has confirmed that the account may remain open provided it is closely monitored.

Cheers

PS Happy 2005

Irvine Rodger  
CBFM MLPU  
The Royal Bank of Scotland plc  
135 Bishopsgate, London, EC2M 3UR (Depot 028)  
Tel: (020) 7085 1082  
Int: 361082  
Fax: (020) 7085 4641  
e: [irvine.rodger@rbos.com](mailto:irvine.rodger@rbos.com) <<mailto:irvine.rodger@rbos.com>>

-----Original Message-----

From: LOVE, Kevin, CBFM  
Sent: 05 January 2005 09:41  
To: RODGER, Irvine, CBFM Enterprise Risk  
Subject: FW: RBS CBFM  
Importance: High

Irvine,  
Please see the article "Bank Row With Palestinian Group". Would welcome your thoughts given all the discussion around Interpal. Should we highlight this to Stephen?

Cheers

Kevin R. Love  
Global Head of Enterprise Risk  
Corporate Banking & Financial Markets  
The Royal Bank of Scotland Group Plc  
[kevin.love@rbos.com](mailto:kevin.love@rbos.com) <<mailto:kevin.love@rbos.com>>  
Work: +44 20 7085 4026 Mobile: +44 7769 931630  
Pager: +44 7693 308651 Blackberry: +44 7793 858329

-----Original Message-----

From: Parker, Murray  
Sent: 05 January 2005 09:22  
To: # CBFM Press Cuttings  
Subject: FW: RBS CBFM

-----Original Message-----

From: Precise Media Monitoring [[SMTP:info@precise-media.co.uk](mailto:info@precise-media.co.uk)] <<mailto:[SMTP:info@precise-media.co.uk]>>  
Sent: 05 January 2005 07:37  
Subject: RBS CBFM press cvoerage 050105

\*\*\* WARNING : This message originates from the Internet \*\*\*

RBS CBFM  
05/01/05

Daily Summary <<<[http://www.precise-media.co.uk/rbscbfm/pdfs/DailySummary\\_512005.Pdf](http://www.precise-media.co.uk/rbscbfm/pdfs/DailySummary_512005.Pdf)>>>

Johnson buys Dewhirst corporate wear business for GBP22.5m  
Financial Times, 05/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50595.pdf>>>>

Johnson buys Dewhirst business  
The Independent, 05/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50596.pdf>>>>

Lenders back ExxonMobil/Qatar project in Wales to tune of GBP420m  
Lloyd's List, 05/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50597.pdf>>>>

Menzies bought by Japanese  
The Birmingham Post, 04/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50598.pdf>>>>

Japanese group buys hotel chain  
Yorkshire Post, 04/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50599.pdf>>>>

RBS EXPLOITS OPPORTUNITIES LEFT BY LETTERBOX BAN  
Funds Europe, 01/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50600.pdf>>>>

Project finance  
International Trade Finance, 01/12/2004  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50601.pdf>>>>

GBP20bn buyout boom is forecast  
Nottingham Evening Post, 05/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50602.pdf>>>>

Enjoy it... while it lasts  
Corporate Finance, 01/12/2004  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50603.pdf>>>>

The gilt edged solution  
Structured Finance International, 01/11/2004  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50604.pdf>>>>

Housing is 'biggest threat'  
Metro, 04/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50605.pdf>>>>

House price fall 'is biggest threat to economy'  
The Birmingham Post, 04/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50606.pdf>>>>

House price fall warning  
Daily Record, 04/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50607.pdf>>>>

Banks reassuring investors over IAS  
Financial Times, 05/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50608.pdf>>>>

Bank row with Palestine group  
The Herald (Glasgow), 04/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50609.pdf>>>>

Fattest pay packets for those at helm of private companies  
The Herald (Glasgow), 04/01/2005  
image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50610.pdf>>>>



US probes Scots bankers' links to Enron scandal

Belfast Telegraph, 31/12/2004

image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50611.pdf>>>>

Workers lose their holidays

Burton Mail, 28/12/2004

image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50612.pdf>>>>

Appointment of chief economist

Peterborough Evening Telegraph, 28/12/2004

image <<<<http://www.precise-media.co.uk/rbscbfm/pdfs/50613.pdf>>>>

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<<http://www.rbsmarkets.com>>

\*\*\*\*\*

**EXHIBIT 142 to Declaration of Joel Israel**

**From:** FOSTER, Stephen James, Group Risk Mgmt  
**Sent:** Thursday, January 6, 2005 8:46 AM  
**To:** JOLLY, Mark, Group Regulatory Risk <Mark.JOLLY@rbs.com>; RIBBON, John, (GS&F AML) <John.RIBBON@rbs.com>; HOLT, Amanda, Group Risk Mgmt (nee Turner) <Amanda.HOLT@rbs.com>; NORRIE, Ben, Group Risk Mgmt <Ben.NORRIE@rbs.com>; RILEY, Claire, (GS&F AML) <Claire.RILEY@rbs.com>  
**Cc:** Mistry, Vijay <Vijay.Mistry@rbs.co.uk>  
**Subject:** FW: Threat Assessment of security risks to the group following account closure of Ismail Patel  
**Attach:** Initial Threat Assessment\_v0.1.doc

---

FYI - on the Al Aqsa issue.

Please note that this must not be circulated wider.

-----Original Message-----

**From:** Mistry, Vijay  
**Sent:** 05 January 2005 13:20  
**To:** Hemsley, Richard (Director, Group Security and Fraud); Mcateer, Watson (GSM); Bischoff, Martin; McAdam, Carolyn  
**Cc:** Couzens, Michael; Orr, James (Group Security & Fraud); Vance, Graham; Wilson, Andrew (Group Communications); FOSTER, Stephen James, Group Risk Mgmt  
**Subject:** Threat Assessment of security risks to the group following account closure of Ismail Patel

Dear all,

please find attached a threat assessment of the above. This has taken into account the Group's actions to reinstate the accounts.

<<...>>

***Vijay Mistry***

Deputy Head of Strategic Intelligence Unit

Group Security and Fraud

**Royal Bank of Scotland Group**

Tel: +44 (0) 131 5237282

Fax: 0131 5238798

Mob: 07990795649

E-mail: vijay.mistry@rbs.co.uk

Email (internal): ~ SIU

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## Threat Assessment



**Strategic Intelligence Unit**

**To:** Richard Hemsley  
Watson McAteer  
Martin Bischoff  
Carolyn McAdam

2<sup>nd</sup> Floor  
Drummond House  
1 Redheughs Avenue  
Edinburgh EH12 9JN

**From:** Justina Hayes

**Phone:** 0131 550 5325

**Cc:** Michael Couzens  
Jim Orr  
Graham Vance  
Stephen Foster  
Andrew Wilson

**SIU REF** TO1/05

**Date:** 5<sup>th</sup> January 2004

### **Protest by Palestine and Muslim campaigners at Head Office, St Andrews Sq and Leicester Branch**

Reference: Group Media Relations 29<sup>th</sup> December 2004

**CAVEAT: Please copy in the originator on any further dissemination**

#### **INTRODUCTION**

Group Media Relations were made aware of an issue following the decision to exit Mr Ismail Patel's personal and business account along with the Friends of Al Aqsa (FoAA) account on the 15<sup>th</sup> December 2004. Mr Patel believes that the RBS actions are 'completely unjustified' and had been a 'political' decision. As a result, demonstrations by the Scottish Palestine Solidarity Campaign and the Muslim Association of Britain were planned outside the Bank's headquarters (St Andrews Square) to coincide with protests by FoAA at the Leicester Belgrave Gate Branch on Friday 7<sup>th</sup> January. This briefing assesses the risk to the Group should such protests go ahead.

#### **CONCLUSION**

In light of the Bank's decision to reverse the withdrawal of banking facilities from Mr Ismail Patel and FoAA the proposed threat of protest action at both St Andrews Square and RBS Leicester Belgrave Gate Branch is significantly reduced. However due to the short timescales for the bank to communicate its decision it is possible that protestors may still attend. Consequently, business at these branches could be slightly disrupted on Friday 7<sup>th</sup> January.

#### **THE MODUS OPERANDI**

There is limited intelligence on the size and type of the original protest planned. The FoAA has urged supporters who hold accounts with the bank to consider transferring to another bank. In March 2002 there was a similar protest planned against NW as a result of the withdrawal of banking facilities from the Islamic Party of Britain. The MO was similar in that they again called upon supporters to consider moving their banking facilities. This protest was cancelled as the Bank reversed its decision. The FoAA's membership is made up of mainly businessmen who would not resort to violence

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It should also be noted that the Alliance & Leicester exited the Palestine Solidarity Campaign in July 2004. The extent of the protest was the presentation of a letter to their main office in Leicester.

**THE THREAT TO RBSG**

The threat of protest has been assessed as follows:-

Branch/Area	RISK	Reasons
RBS Leicester Belgrave Gate	LOW	<ul style="list-style-type: none"><li>• Media coverage states the branch.</li><li>• This is the branch Mr Patel's accounts are held at.</li></ul>
36 & 42 St Andrews Square	LOW	<ul style="list-style-type: none"><li>• Media coverage states the headquarters of RBS.</li></ul>

**RECOMMENDATIONS**

It is recommended that:

- To avert protest action, communications with Mr Patel and FoAA should be undertaken immediately to advise them of the Banks decision. Group Communications should consider whether or not a press release is also required.
- Increased security should be considered for both St Andrew Square and Leicester Belgrave Gate, due to the short timescales involved.
- SIU to continue with open source monitoring and assess additional intelligence requirement which may be required.

**EXHIBIT 143 to Declaration of Joel Israel**

Unknown

---

**From:** WILLIAMSON, Ed, CBFM Enterprise Risk  
**Sent:** Friday, June 10, 2005 9:33 AM  
**To:** RODGER, Irvine, MLPU  
**Subject:** RE: Letter of complaint submitted to Fred Goodwin

Irv - i can't find them ,. can you send me the attachment as mentioned by claire - this may give acct numbers or sort-codes

thanks  
ed

Ed Williamson

CBFM MLPU

Tel: (020) 70853473

Int: 363473

-----Original Message-----

**From:** RODGER, Irvine, CBFM Enterprise Risk  
**Sent:** 10 June 2005 14:14  
**To:** WILLIAMSON, Ed, CBFM Enterprise Risk  
**Subject:** FW: Letter of complaint submitted to Fred Goodwin

Irvine Rodger  
CBFM MLPU  
The Royal Bank of Scotland plc  
135 Bishopsgate, London, EC2M 3UR (Depot 028)  
Tel: (020) 7085 1082  
Int: 361082  
Fax: (020) 7085 4641  
e: [HYPERLINK "mailto:irvine.rodger@rbos.com"irvine.rodger@rbos.com](mailto:irvine.rodger@rbos.com)

-----Original Message-----

**From:** RODGER, Irvine, CBFM Enterprise Risk  
**Sent:** 10 June 2005 13:29  
**To:** RILEY, Claire, Group Risk Mgmt; Gannon, Ian  
**Cc:** FOSTER, Stephen James, Group Risk Mgmt; RIBBON, John, Group Risk Mgmt  
**Subject:** RE: Letter of complaint submitted to Fred Goodwin

Claire

We will see if this is one of ours but I do not recognise the names.

7/3/2008

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NW 069060



If this is an anti-Islamic accusation against the Bank, there should be an awareness that CBFM has deliberately maintained its relationship with Interpal (Charity to relieve the suffering of Palestinians) despite US and Israeli sanctions.

Ed

Please investigate through BO.and revert to me.

Thanks

Irvine Rodger  
CBFM MLPU  
The Royal Bank of Scotland plc  
135 Bishopsgate, London, EC2M 3UR (Depot 028)  
Tel: (020) 7085 1082  
Int: 361082  
Fax: (020) 7085 4641  
e: HYPERLINK "mailto:irvine.rodger@rbos.com"irvine.rodger@rbos.com

-----Original Message-----

From: RILEY, Claire, Group Risk Mgmt  
Sent: 10 June 2005 11:41  
To: Gannon, Ian; RODGER, Irvine, CBFM Enterprise Risk  
Cc: FOSTER, Stephen James, Group Risk Mgmt; RIBBON, John, Group Risk Mgmt  
Subject: Letter of complaint submitted to Fred Goodwin

Ian / Irvine

For your information, a letter of complaint has recently been sent to Sir Fred Goodwin regarding the closure of accounts for the following linked accounts:



The letter was sent by an MP who had been approached by a representative of these companies.

The attached note provides some background to the closure of these accounts and the history behind previous complaints that have been submitted both the FOS and the FSA.

I would be grateful if you could confirm whether these accounts are Corporate or Retail connections, and also if

7/3/2008

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NW 069061

If you have any queries please let me know.

Kindest regards

Claire

Claire Riley

Manager

Anti-Money Laundering Risk Assessments & Monitoring

Group Enterprise Risk, Group Risk Management

Level 5

280 Bishopsgate

London

EC2M 4RB

Telephone No. 0207 085 1399

7/3/2008

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NW 069062

**EXHIBIT 144 to Declaration of Joel Israel  
(Communication with U.K. Government, 1 Page)**

**This document has been filed Under Seal**

**EXHIBIT 145 to Declaration of Joel Israel**

*TZVI WEISS, et al. VS.  
NATIONAL WESTMINSTER BANK, PLC*

---

*GARY WALTERS  
June 8, 2011*

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*Original File 96687.txt  
Min-U-Script® with Word Index*

Page 1

1 UNITED STATES DISTRICT COURT  
 2 EASTERN DISTRICT OF NEW YORK  
 3 -----x  
 4 TZVI WEISS, et al.,  
 5 Plaintiffs,  
 6 -against-  
 7 NATIONAL WESTMINSTER BANK, PLC,  
 8 Defendants.  
 9 -----x  
 10 NATAN APPLEBAUM, et al.,  
 11 Plaintiffs,  
 12 -against-  
 13 NATIONAL WESTMINSTER BANK, PLC,  
 14 Defendants.  
 15 -----x  
 16 One Liberty Plaza  
 17 New York, New York  
 18 June 8, 2011  
 19 9:30 a.m.  
 20  
 21 Videotaped Deposition of  
 22 GARY WALTERS, before Shari Cohen, a Notary  
 23 Public of the State of New York.  
 24  
 25 ELLEN GRAUER COURT REPORTING CO. LLC  
 126 East 56th Street, Fifth Floor  
 New York, New York 10022  
 212-750-6434  
 REF: 96687

Page 2

1 A P P E A R A N C E S:  
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 4 Attorneys for Plaintiffs  
 5 260 Madison Avenue  
 6 New York, New York 10016  
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 8 PHONE 212-239-4340  
 9 FAX 212-239-4310  
 10 EMAIL jbonner@lawssb.com  
 11  
 12  
 13 SAYLES WERBNER  
 14 Attorneys for Plaintiffs  
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 16 1201 Elm Street  
 17 Dallas, Texas 75270  
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 19 PHONE 214-939-8700  
 20 FAX 214-939-8787  
 21 EMAIL jisrael@swtriallaw.com  
 22  
 23  
 24  
 25

Page 3

1 A P P E A R A N C E S (CONT'D):  
 2  
 3 CLEARY GOTTLIEB STEEN & HAMILTON LLP  
 4 Attorneys for Defendants  
 5 One Liberty Plaza  
 6 New York, New York 10006  
 7 BY: LARRY FRIEDMAN, ESQ.  
 8 JAMIE RIETEMA, ESQ.  
 9 VALERIE SCHUSTER, ESQ.  
 10 PHONE 212-225-2432  
 11 FAX 212-225-3999  
 12 EMAIL lfriedman@cgsh.com  
 13  
 14  
 15 ALSO PRESENT:  
 16 DAN MACOM, Videographer  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 4

1 ----- I N D E X -----  
 2 WITNESS EXAMINATION BY PAGE  
 3 GARY WALTERS MR. FRIEDMAN 7, 302  
 4 MR. BONNER 300  
 5  
 6  
 7 ----- DOCUMENT REQUESTS -----  
 8 PAGE 52 Curriculum Vitae of Jeremy Hibbert  
 9  
 10  
 11 ----- INFORMATION TO BE FURNISHED -----  
 12 PAGE 165 Location of statements in  
 13 deposition transcript  
 14  
 15  
 16 ----- E X H I B I T S -----  
 17 EXHIBIT DESCRIPTION FOR I.D.  
 18 Exhs. 1-43 Documents 7  
 19 Exhibit 44 Document, Bates labeled 250  
 20 NW 13698  
 21  
 22 (Exhibits 15, 19, 21, 26 and 41 not used)  
 23  
 24  
 25 (EXHIBITS TO BE PRODUCED)

<p style="text-align: right;">Page 5</p> <p>1     S T I P U L A T I O N S</p> <p>2</p> <p>3     IT IS HEREBY STIPULATED AND AGREED by</p> <p>4     and between the attorneys for the respective</p> <p>5     parties herein, that the filing, and sealing</p> <p>6     of the within deposition be waived.</p> <p>7     IT IS FURTHER STIPULATED AND AGREED</p> <p>8     that all objections, except as to the form of</p> <p>9     the question, shall be reserved to the time</p> <p>10    of the trial.</p> <p>11    IT IS FURTHER STIPULATED AND AGREED</p> <p>12    that the within deposition may be sworn to</p> <p>13    and signed before any officer authorized to</p> <p>14    administer an oath with the same force and</p> <p>15    effect as if signed and sworn to before the</p> <p>16    Court.</p> <p>17</p> <p>18</p> <p>19     -oOo-</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 7</p> <p>1     MR. ISRAEL: Joel Israel with</p> <p>2     Sayles Werbner here for the</p> <p>3     plaintiffs.</p> <p>4     MR. FRIEDMAN: Lawrence</p> <p>5     Friedman, Cleary Gottlieb for Nat</p> <p>6     West. With me are my colleagues</p> <p>7     Valerie Schuster and Jamie Rietema.</p> <p>8     THE VIDEOGRAPHER: Will the</p> <p>9     court reporter please swear in the</p> <p>10    witness.</p> <p>11    G A R Y   W A L T E R S, called as a witness,</p> <p>12    having been duly sworn by the Notary</p> <p>13    Public, was examined and testified as</p> <p>14    follows:</p> <p>15</p> <p>16    EXAMINATION BY</p> <p>17    MR. FRIEDMAN:</p> <p>18    (Exhibits 1-43, Documents,</p> <p>19    marked for Identification.)</p> <p>20    Q.    Good morning, Mr. Walters.</p> <p>21    A.    Good morning.</p> <p>22    Q.    Have you ever had your</p> <p>23    deposition taken before?</p> <p>24    A.    Never.</p> <p>25    Q.    I'll be asking you a series of</p>
<p style="text-align: right;">Page 6</p> <p>1     P R O C E E D I N G S</p> <p>2     THE VIDEOGRAPHER: This is tape</p> <p>3     one. We are now on the record. The</p> <p>4     time is 9:29 a.m. Today is Wednesday,</p> <p>5     June 8, 2011. This is the opening of</p> <p>6     the deposition of Mr. Gary Walters in</p> <p>7     the matter of Tzvi Weiss, et al.</p> <p>8     verses National Westminster Bank, PLC</p> <p>9     and also in the matter of Natan</p> <p>10    Applebaum, et al. verses National</p> <p>11    Westminster Bank, PLC.</p> <p>12    This deposition is being held</p> <p>13    at the offices of Cleary Gottlieb</p> <p>14    Steen &amp; Hamilton which is located at 1</p> <p>15    Liberty Plaza in New York, New York.</p> <p>16    The court reporter today is Ms. Shari</p> <p>17    Cohen with Ellen Grauer Court</p> <p>18    Reporting. I'm the legal videographer</p> <p>19    Dan Macom also with Ellen Grauer Court</p> <p>20    Reporting.</p> <p>21    Will counsel please introduce</p> <p>22    themselves.</p> <p>23    MR. BONNER: Jim Bonner with</p> <p>24    Stone Bonner &amp; Rocco for the</p> <p>25    plaintiffs.</p>	<p style="text-align: right;">Page 8</p> <p>1     WALTERS</p> <p>2     questions today. I'm going to do my best to</p> <p>3     make my questions as clear and understandable</p> <p>4     as I can. If at any time you wish for me to</p> <p>5     repeat or rephrase one of my questions, I</p> <p>6     will or if you don't understand one of my</p> <p>7     questions please tell me otherwise the record</p> <p>8     will reflect that you understood my question</p> <p>9     and are answering it accordingly, is that</p> <p>10    okay?</p> <p>11    A.    Yes, thank you.</p> <p>12    Q.    Let me show you what the</p> <p>13    reporter has marked as Exhibit 1. Do you</p> <p>14    recognize this to be the first report you</p> <p>15    submitted in these cases?</p> <p>16    A.    Yes, I do.</p> <p>17    Q.    Is that your signature that</p> <p>18    appears on page 23?</p> <p>19    A.    It is.</p> <p>20    Q.    Is there anything in this</p> <p>21    report you believe is incorrect?</p> <p>22    A.    In reviewing this report in</p> <p>23    preparation for this there is -- I think</p> <p>24    there are one or two typing mistakes, maybe</p> <p>25    one or two other bits where on reflection I</p>

Page 17

1 WALTERS  
2 Q. Was your retirement completely  
3 voluntary?  
4 A. Completely voluntary.  
5 Q. When did Mr. Duthie first ask  
6 you to consult with FRA, was it before you  
7 ended your police career or after?  
8 A. In terms of actually -- we had  
9 a few as I say very brief conversations about  
10 what I was planning to do when I left, but it  
11 was after I left that he said look, can we  
12 find some time and have a proper conversation  
13 about it and in terms of -- and that time I  
14 was busy doing a lot of things and I -- so  
15 probably about -- we intended meeting, but  
16 just didn't seem to find the time, probably  
17 six months after I left the police.  
18 Q. So that's around the middle of  
19 2010?  
20 A. Yeah, as I said it's around  
21 then.  
22 Q. Did the possibility of your  
23 work on these cases come up in that first  
24 conversation?  
25 A. He was non specific about

Page 18

1 WALTERS  
2 cases.  
3 Q. When did the subject of your  
4 working on this case first come up, these  
5 cases?  
6 A. I think it was a couple of  
7 months after our first conversation. I don't  
8 think we discussed it at what I would call a  
9 proper meeting.  
10 Q. After the middle of 2010?  
11 A. Yes, I believe so.  
12 Q. When did you join FRA as a  
13 consultant?  
14 A. I think I agreed to join them  
15 in -- would have probably been August I  
16 suppose or something.  
17 Q. I'll show you in a moment that  
18 your first time sheet entry for work on these  
19 cases is September 24, 2010. Does that  
20 enable you to be any more specific as to when  
21 you started working with FRA?  
22 A. It would have been to work on  
23 this so instead of August it was probably  
24 September then.  
25 Q. The first work that you did

Page 19

1 WALTERS  
2 with FRA was your work on these cases?  
3 A. Yes.  
4 Q. Have you done any other work  
5 with FRA since joining the company?  
6 A. I have had a number of meetings  
7 with them on general matters in terms of  
8 money laundering and corruption, bribery and  
9 attended things on their behalf really like  
10 the book launch the other day was as a  
11 consultant to them I said I would go and  
12 attend, but no major pieces of work.  
13 Q. Have you worked on any client  
14 engagements? Have you worked on any matters  
15 for clients of FRA other than these cases?  
16 A. No.  
17 Q. When you say meetings with FRA  
18 on general matters, you are talking about  
19 internal meetings?  
20 A. Internal meetings.  
21 Q. To speak with your colleagues  
22 at FRA about those matters?  
23 A. Yes.  
24 Q. Other than a book launch, what  
25 other things have you attended on behalf of

Page 20

1 WALTERS  
2 FRA?  
3 A. I think that's the only thing  
4 outside internal meetings where I've  
5 specifically been -- specifically sort of  
6 representing them.  
7 Q. Do you work full-time for FRA?  
8 A. No, I don't.  
9 Q. What percentage of -- what else  
10 do you do besides working for FRA?  
11 A. I have a number of other firms  
12 in investigation and security who I meet with  
13 and I have a couple of them who have asked me  
14 to do some work on cases.  
15 Q. What are the names of those  
16 firms?  
17 A. I'm just trying to think. I'm  
18 not avoiding. I'm just trying to think here  
19 whether I feel comfortable disclosing who I'm  
20 working for, quite small firms.  
21 Q. They are investigation and  
22 security firms in the U.K.?  
23 A. One is in the U.K. and one is  
24 abroad.  
25 Q. Where abroad?



Page 21

1 WALTERS  
 2 A. Hong Kong.  
 3 Q. Does any of that work involve  
 4 terror finance?  
 5 A. Not that I have spoken to them  
 6 about, no.  
 7 Q. What percentage of your working  
 8 time since you left the police at the end of  
 9 2009 has been devoted to your work with FRA  
 10 as opposed to work apart from FRA?  
 11 A. On the consultancy -- I have  
 12 some other work interests that are not  
 13 related to this work whatsoever.  
 14 Q. First why don't you tell me  
 15 about those?  
 16 A. Another position. I work for  
 17 my family company.  
 18 Q. What is that?  
 19 A. It's a small firm engaged in  
 20 farming basically.  
 21 Q. During calendar year 2010 and  
 22 thus far in 2011 can you apportion for me on  
 23 a percentage basis the amount of working time  
 24 you've spent on FRA as opposed to the two  
 25 investigation and consulting firms as opposed

Page 22

1 WALTERS  
 2 to your family company?  
 3 A. The family company stuff I  
 4 would have to say is I don't keep hours, it's  
 5 full-time in terms of my time, but it's very  
 6 flexible. In terms of consulting and what I  
 7 would call my consultancy side FRA has  
 8 probably been 80 percent.  
 9 Q. Of your consultancy work?  
 10 A. Yes.  
 11 Q. Your consultancy work as a  
 12 percentage of the whole is what of your  
 13 working time?  
 14 A. I'm never good with time.  
 15 Q. An approximation will do.  
 16 MR. BONNER: What time frame  
 17 you talking about?  
 18 MR. FRIEDMAN: Since he's left  
 19 the police.  
 20 A. Since I've left the police I  
 21 was very busy, you know, I mean I find that  
 22 very difficult. I'm not being awkward, but I  
 23 find that very difficult to answer because I  
 24 had six months of doing nothing on  
 25 consultancy whatsoever beyond a small -- I

Page 23

1 WALTERS  
 2 also would say just for clarity, forgive me,  
 3 going back, I also lecture for another  
 4 company that's in international training on  
 5 accountability and ethics in relation to  
 6 grand corruption, bribery, money laundering,  
 7 financial crime.  
 8 Q. What's the name of that  
 9 company?  
 10 A. That's RIPA.  
 11 Q. What does that stand for?  
 12 A. I really can't recall. They  
 13 are part of a bigger group.  
 14 Q. They are in the U.K.?  
 15 A. They are in the U.K.  
 16 Q. How many lectures have you  
 17 given?  
 18 A. I think since I left the police  
 19 two.  
 20 Q. So am I right that you're not a  
 21 full-time employee of FRA, you're a  
 22 consultant to FRA?  
 23 A. I'm a consultant to FRA.  
 24 Q. Is it your understanding you  
 25 were retained by FRA specifically to provide

Page 24

1 WALTERS  
 2 consulting services on these cases?  
 3 A. No, my understanding is I'm  
 4 retained by them as a general consultant on  
 5 all these types of matters.  
 6 Q. What is your compensation from  
 7 FRA?  
 8 A. In general consultancy terms?  
 9 Q. Yes.  
 10 A. 400 pounds a month.  
 11 Q. Regardless of how much time you  
 12 spend?  
 13 A. Regardless of how much time I  
 14 spend.  
 15 Q. There's no premium on top of  
 16 that if you spend additional time, if you  
 17 spend a lot of time?  
 18 A. Because it's quite new and a  
 19 new field for both, certainly for me, it was  
 20 felt that we would start there and then  
 21 review it on a case by case basis and on a  
 22 project basis if other projects came in in  
 23 terms of lectures, conferences so we would  
 24 decide it on an on-going basis.  
 25 Q. Let me show you what's been

Page 25

1 WALTERS  
 2 marked as Exhibit 3. Have you ever seen this  
 3 before?  
 4 A. I don't believe I have.  
 5 Q. Do you have an office at FRA?  
 6 A. I have use of the office, yes.  
 7 Q. What office do you have the use  
 8 of?  
 9 A. The FRA offices.  
 10 Q. Where is that?  
 11 A. In Ely Place.  
 12 Q. In London?  
 13 A. London.  
 14 Q. Do you have a desk there that's  
 15 assigned to you?  
 16 A. I don't have an assigned desk,  
 17 no.  
 18 Q. In the last six months since  
 19 the beginning of this year, how many days  
 20 have you spent at the FRA office?  
 21 A. In the last six months, I have  
 22 to say I don't know. I would go up to London  
 23 about a day or two a week and sometimes I  
 24 would go up for longer.  
 25 Q. Where do you live?

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1 WALTERS  
 2 A. I live in Kent.  
 3 Q. Do you know what the street  
 4 address is of the FRA office at Ely Place?  
 5 A. It is Ely Place.  
 6 Q. Do you know of any other street  
 7 address?  
 8 A. No, I believe it's Ely Place.  
 9 Q. Do you know the telephone  
 10 number there?  
 11 A. I don't.  
 12 Q. I'm going to show you what's  
 13 been marked as Exhibit 4 and Exhibit 5 which  
 14 counsel has told us are the invoices and time  
 15 sheets underlying your reports. Have you  
 16 ever seen these before?  
 17 A. No.  
 18 Q. The last time reported for you  
 19 -- by the way, do you fill out time sheets  
 20 for your work?  
 21 A. No, I don't.  
 22 Q. In these -- you will see in  
 23 these exhibits there are time sheets with  
 24 your name that purport to describe the work  
 25 you did, the dates on which you did the work,

Page 27

1 WALTERS  
 2 the nature of the work and the hours that you  
 3 spent. Do you know where that information  
 4 comes from?  
 5 A. They have a system that  
 6 captures this.  
 7 Q. Can you describe that to me?  
 8 A. It's a web based, excuse my  
 9 ignorance, but I call it web based, internet  
 10 based secured site that you log in and then  
 11 you fill out hours.  
 12 Q. You do that when you work?  
 13 A. I try to remember to do that  
 14 when I work.  
 15 Q. How do you do that, from a home  
 16 computer?  
 17 A. I have done, yeah.  
 18 Q. So if you look at Exhibit 4 and  
 19 if you look at page 5 of 12, we see entries  
 20 beginning for you -- actually the first one  
 21 is 24 September, then 27, then 30, then 1  
 22 September, then 27 September so it's not  
 23 necessarily in chronological order, do you  
 24 see that?  
 25 A. Yes.

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1 WALTERS  
 2 Q. Could you tell me do you  
 3 believe that these reflect entries that you  
 4 made on the system that you described?  
 5 A. As far as I'm aware, yes.  
 6 Q. So there would be you believe a  
 7 corresponding entry -- there would be  
 8 something that you submitted on the FRA  
 9 system that corresponds to each of these  
 10 entries in these time sheets?  
 11 A. I would have expected so, yes.  
 12 Q. Do you maintain copies on your  
 13 computer or anywhere else of what you submit  
 14 to FRA for these purpose?  
 15 A. No.  
 16 Q. These are items that you put  
 17 indirectly to a system and you don't keep any  
 18 record of them?  
 19 A. That's true, yeah.  
 20 Q. Exhibit 5 I believe the last  
 21 entry for you is February 27, 2011. Have you  
 22 done any work -- and that shows up on page 2  
 23 of 3 of Exhibit 5. Have you done any work on  
 24 these matters since then?  
 25 A. Sorry, which page?

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1 WALTERS  
 2 permanently evolving and changing and I do  
 3 know because I still speak to people that  
 4 it's changed a great deal so I don't know  
 5 when this was written.  
 6 Q. This is the name of the team  
 7 you headed -- this is the team that you  
 8 headed in your last years with the MPS,  
 9 correct?  
 10 A. Yes.  
 11 Q. Go back to your CV in Exhibit  
 12 1. Turn to page 2, please, the discussion of  
 13 the money laundering investigation team. The  
 14 end of the first paragraph in that section it  
 15 says, "Some of MLIT's investigations  
 16 overlapped with terrorism cases and the  
 17 financing of terrorism", do you see that?  
 18 A. Yes.  
 19 Q. The terrorism cases and the  
 20 financing of terrorism that your team's  
 21 investigation overlapped with, those other  
 22 cases were handled by the NTFIU, correct?  
 23 MR. BONNER: Objection to form.  
 24 A. Perhaps I can clarify that for  
 25 you.

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1 WALTERS  
 2 Q. Before you clarify it. This  
 3 says that your team's investigations  
 4 overlapped with cases in the terrorism and  
 5 terrorist financing area, correct?  
 6 A. Yes.  
 7 Q. My question is if you look at  
 8 this in terms of a ven diagram, I gather  
 9 there's a shaded area of overlap. What's the  
 10 other -- what group within the MPS was the  
 11 other circle? Who was conducting the other  
 12 investigations into -- who was conducting the  
 13 investigations into terrorism and financing  
 14 with which your team overlapped? What was  
 15 the name of that group?  
 16 MR. BONNER: Objection to form.  
 17 Go ahead, you can answer.  
 18 A. Sometimes there wasn't anybody  
 19 investigating that field of crime.  
 20 Q. And other times?  
 21 A. If I could finish.  
 22 Q. Sure.  
 23 A. The background to the offenses  
 24 that we would be dealing with would indicate  
 25 that perhaps there was terror financing

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1 WALTERS  
 2 involved, but it didn't mean that anybody  
 3 else was investigating terror financing. If  
 4 I could just go back to the overlaps that  
 5 occurred in other fields of work there was a  
 6 specialist team and going back to your  
 7 previous page about the metropolitan police,  
 8 the dedicated, for example, the dedicated  
 9 check and plastic crime unit had  
 10 investigators, but we often dealt with cases  
 11 that in some ways they could have been  
 12 dealing with.  
 13 Q. Understood.  
 14 A. There was nobody investigating  
 15 it so we dealt with those issues.  
 16 Q. I understand. When there was a  
 17 case that involved terrorism and financing  
 18 terrorism, the counter terrorism team would  
 19 have primary responsibility for that,  
 20 correct?  
 21 A. I would meet with them and  
 22 discuss the cases and I would -- and then a  
 23 decision would be made who would investigate  
 24 it.  
 25 Q. Did your team have

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1 WALTERS  
 2 responsibility for cases that involved only  
 3 terrorism and terrorist financing?  
 4 A. Again, I pause before answering  
 5 because it's really not that simple because  
 6 occasionally we would start out  
 7 investigations, for instance, with a cash  
 8 seizure under the cash seizure provisions  
 9 where circumstances would lead us or  
 10 intelligence would lead us and we would  
 11 recover money and at that stage we often  
 12 didn't know what we were dealing with beyond  
 13 it was suspicious and we would take action.  
 14 If that money turned out to be,  
 15 for instance, linked to major drug dealing, I  
 16 would go and see the teams that were focused  
 17 on drug crime and discuss with them does this  
 18 assist them in their investigations, do they  
 19 want to take it over, what would they like to  
 20 do and how would they like us to proceed and  
 21 then we would be in a dialogue.  
 22 In the same way if there is  
 23 indication of terrorist financing or anything  
 24 that may overlap, I would meet with the  
 25 anti-terrorist squad offices who I knew very

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1 WALTERS  
2 well because some of them had come from  
3 exactly my background and discussed with them  
4 this is what we are dealing with, this is  
5 what we know so far and then we would keep  
6 them in the loop.  
7 Q. In these instances of overlap  
8 that are described in the sentence that  
9 overlap was -- the folks involved in the  
10 overlap in addition to your team were people  
11 from the anti-terrorist squad, correct?  
12 A. Sorry, could you say that  
13 again.  
14 Q. What I'm getting at is in this  
15 area of overlap, in these instances of  
16 overlap that's described in this sentence,  
17 the other personnel outside of your team that  
18 you would work with would be the  
19 anti-terrorism squad of people, correct?  
20 A. Yes.  
21 Q. Did any of these overlapping  
22 investigations involve questions relating to  
23 banking practices, the practices of U.K.  
24 banks? Let me be more specific.  
25 A. I'm sorry.

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1 WALTERS  
2 Q. It was a bad question. Let me  
3 be more specific. In these overlapping  
4 investigations that you were involved with,  
5 did you ever have occasion to have experience  
6 with questions relating to the internal  
7 practices of U.K. banks?  
8 MR. BONNER: Objection to form.  
9 You can answer.  
10 A. In just about -- in most cases  
11 that we dealt with that's my team and the  
12 anti-terrorist unit there was -- I'm trying  
13 to think where there wasn't a regulated  
14 entity be it banks, lawyers, accountants,  
15 other regulated bodies, but normally banks.  
16 Majority of cases money is moved through  
17 banks which always brought up issues with the  
18 regulation of banks.  
19 Q. Did you ever have occasion to  
20 investigate a bank's conduct in relation to  
21 terrorist financing?  
22 A. I'd have to say I can't recall  
23 a specific case where that happened.  
24 Q. If you look further down on  
25 page 2, I'm sorry, if you look at the next

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1 WALTERS  
2 sentence of what we were just looking at, the  
3 second paragraph on page 2, it says, "He  
4 regularly interacted with the national  
5 terrorist financing intelligence unit."  
6 Actually it says, "As such he regularly  
7 interacted with the national terrorist  
8 financing intelligence unit", do you see  
9 that?  
10 A. Yes.  
11 Q. Do the words as such meaning  
12 that in these overlapping cases you dealt  
13 with the NTFIU?  
14 A. Yes.  
15 Q. The last section on this  
16 page --  
17 A. Just to clarify that answer if  
18 I may. I also dealt with them in a more  
19 generic way around meeting with them in  
20 relation to generic anti-money laundering and  
21 regulatory issues and met with them at  
22 conferences and talks where we would discuss  
23 what's going on within the arena and what  
24 messages effectively corporately we needed to  
25 or try to put across to the people we were

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1 WALTERS  
2 meeting with so we just didn't purely  
3 duplicate each other.  
4 Q. Let's look at the last section  
5 on page 2 carry over to page 3 which  
6 describes a case involving Sri Lankan --  
7 funds relating to Sri Lanka and the Tamil  
8 Tigers, do you see that?  
9 A. Yes.  
10 Q. Is there any other instance  
11 that you recall in which you cooperated with  
12 the NTFIU on a specific investigation other  
13 than the one listed here?  
14 A. I should just clarify in giving  
15 my answers that I feel both legally and duty  
16 bound in some circumstances to be careful  
17 with how I answer because I'm subject to the  
18 Official Secrets Act and subject to  
19 confidential information I obtained during my  
20 time in the police so to qualify in that way  
21 I dealt on a number of cases.  
22 This one I feel able to talk  
23 about in more detail because it went to  
24 court, there were court hearings and it was  
25 easier to deal with.

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1 WALTERS  
 2 Q. You never worked for the FSA?  
 3 A. No, again, I worked with the  
 4 FSA on a number of matters, but I was never  
 5 in the FSA.  
 6 Q. On money laundering matters?  
 7 A. On money laundering and  
 8 regulation matters, yes.  
 9 Q. You never worked for the NCIS?  
 10 A. I was never a member of NCIS,  
 11 but again, I regularly worked on cases  
 12 alongside them.  
 13 Q. Involving money laundering?  
 14 A. Involving money laundering,  
 15 yes.  
 16 Q. You never worked for SOCA?  
 17 A. No, they came into being from  
 18 NCIS very similar, but I was never a member  
 19 of SOCA.  
 20 Q. You never worked for the  
 21 Charity Commission?  
 22 A. Never worked for the Charity  
 23 Commission.  
 24 Q. You worked with the Charity  
 25 Commission on money laundering matters?

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1 WALTERS  
 2 A. I had one particular case with  
 3 money laundering matters where I worked with  
 4 the charity.  
 5 Q. The Shah case?  
 6 A. No, that was the Baluchi case.  
 7 Q. You submitted a witness  
 8 statement in that case?  
 9 A. On Baluchi?  
 10 Q. Yes.  
 11 A. I can't recall. I can't  
 12 recall.  
 13 Q. You did in the Shah case?  
 14 A. In the Shah case I submitted a  
 15 couple of witness statements.  
 16 Q. You ever work for Her Majesty's  
 17 Treasury?  
 18 A. No, I worked very close with  
 19 them, again, but not worked for them.  
 20 Q. On money laundering matters?  
 21 A. On related financial crime  
 22 matters, yes.  
 23 Q. Did you ever work for the  
 24 Financial Sanctions Unit of the Bank of  
 25 England?

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1 WALTERS  
 2 A. No, I didn't.  
 3 Q. Look at paragraph 78 of your  
 4 first report. Is that accurate?  
 5 A. I believe it is, yeah.  
 6 Q. Paragraph 79, is that accurate?  
 7 A. I believe it is, yes.  
 8 Q. Based on your experience, were  
 9 the members of special branch with whom you  
 10 worked competent?  
 11 MR. BONNER: Objection to form.  
 12 A. In my career I worked with them  
 13 on a number of different things at different  
 14 times and there's different people. I find  
 15 it very difficult to answer that. There were  
 16 different people with different levels of  
 17 skill. Some of them I worked with had skills  
 18 in different areas so very difficult to  
 19 answer that.  
 20 Q. Do you know someone named Mark  
 21 Ashtown?  
 22 A. I can't recall whether I met  
 23 him or not.  
 24 Q. Bob Stevens?  
 25 A. Again, I can't recall if I met

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1 WALTERS  
 2 him or not.  
 3 Q. Neil Bennett?  
 4 A. I can't recall whether I met  
 5 him or not.  
 6 Q. Did you ever report to --  
 7 withdrawn. When you were in the Metropolitan  
 8 Police Service, was there a mechanism whereby  
 9 if you thought one of your colleagues was not  
 10 doing his or her job competently you could  
 11 report that to your superior or a superior?  
 12 A. There were routes to address  
 13 performance issues.  
 14 Q. Did you ever raise any  
 15 performance issues relating to people you  
 16 worked with in special branch?  
 17 A. No, I didn't.  
 18 Q. The anti-terrorist squad?  
 19 A. No.  
 20 Q. The NTFIU?  
 21 A. I probably need to qualify that  
 22 a little bit because there are many ways of  
 23 raising performance issues and I from  
 24 addressing it directly myself if I was  
 25 witness to anything, from verbal advice there



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1 WALTERS  
 2 and then even if it wasn't somebody directly  
 3 in my area of work or speaking quietly to  
 4 their own line managers and seniors.  
 5 Q. Did you ever make a formal  
 6 report about anyone from NTFIU or the  
 7 anti-terrorist squad or special branch?  
 8 A. No, I don't believe I did.  
 9 Q. NCIS?  
 10 MR. BONNER: Formal report you  
 11 talking about?  
 12 A. Formal report?  
 13 Q. Yes.  
 14 A. No.  
 15 Q. Did you ever make an informal  
 16 report complaining about the competence of  
 17 people in any of those areas?  
 18 A. I don't recall making a  
 19 complaint, but I would provide feedback to  
 20 their senior officers and/or colleagues  
 21 around where I perhaps felt that performance  
 22 might be an issue, but informally.  
 23 Q. Do you recall any specific  
 24 instance in which you did that with respect  
 25 to a member of special branch?

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1 WALTERS  
 2 A. I can't recall any specific  
 3 issues, no.  
 4 Q. Anti-terrorist squad?  
 5 A. No.  
 6 Q. NTFIU?  
 7 A. No.  
 8 Q. Anyone in the counter terrorism  
 9 command?  
 10 A. No, I can't recall any specific  
 11 issues.  
 12 Q. SOCA?  
 13 A. I can't recall any specific  
 14 issues.  
 15 Q. Charity Commission?  
 16 A. Again, I would have to say I  
 17 don't recall any specific issues.  
 18 Q. FSA?  
 19 A. I can't recall any specific  
 20 issues.  
 21 Q. The highest rank you achieved  
 22 at Scotland Yard was detective inspector,  
 23 correct?  
 24 A. Yes, it was. I was on  
 25 different occasions temporary detective chief

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1 WALTERS  
 2 inspector and acting chief inspector.  
 3 Q. When the chief inspector  
 4 position was empty?  
 5 A. Either when it was -- it was  
 6 either, yeah, vacant in some way or covering  
 7 for people and that happened elsewhere as  
 8 well.  
 9 Q. Thereafter you were restored to  
 10 detective inspector?  
 11 A. Yes.  
 12 Q. Let me show you what's been  
 13 marked as Exhibit 10 which is something else  
 14 we took from the MPS website. If you look at  
 15 the second page, there is a description at  
 16 the bottom of the rank structure of the MPS,  
 17 do you see that?  
 18 A. Yes, I do.  
 19 Q. Is that accurate?  
 20 A. Yes, it is.  
 21 Q. Was it accurate during 2005 to  
 22 2009?  
 23 A. Yes, it was.  
 24 Q. Was it accurate during 2003 to  
 25 2009?

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1 WALTERS  
 2 A. Yes, I think it has not changed  
 3 for many years.  
 4 Q. You were in the third position  
 5 from the bottom of the page, you were an  
 6 inspector with the prefix detective as  
 7 described in the text at the bottom of the  
 8 page, correct?  
 9 A. Yes.  
 10 Q. Look at page 2 of your CV again  
 11 in Exhibit 1. Read to yourself the first  
 12 paragraph under the heading Charity  
 13 Commission?  
 14 A. Yes.  
 15 Q. Did you work with the Charity  
 16 Commission on any case other than the Baluchi  
 17 case?  
 18 A. During my full service I have  
 19 dealt with numerous crimes relating to  
 20 charities. Sometimes -- often my office, you  
 21 know, maybe I need to be more specific. I  
 22 would have offices investigating these cases  
 23 and I would be in charge of the case.  
 24 There's an element of supervision sometimes,  
 25 but I had a number of dealings and I can't

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1 WALTERS  
 2 recall how many. I dealt with an awful lot of  
 3 crime, but particularly around frauds where  
 4 the Charity Commission or charities were  
 5 engaged and when that happened we would try  
 6 to engage with the Charity Commission because  
 7 we feel that they needed to know.  
 8 Q. Did you ever have any --  
 9 withdrawn. Did you ever work directly with  
 10 the Charity Commission other than in the  
 11 Baluchi case?  
 12 A. I didn't, no.  
 13 Q. Have you ever been employed by  
 14 a commercial or retail bank?  
 15 A. No, I haven't.  
 16 Q. Do you have any professional  
 17 training or education in bank policies?  
 18 A. Beyond the diploma?  
 19 Q. Correct.  
 20 A. No formal education.  
 21 Q. Do you have any professional  
 22 training on bank policies other than the  
 23 diploma?  
 24 A. No formal training, no.  
 25 Q. Other than the diploma,

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1 WALTERS  
 2 everything you know about the internal  
 3 policies and procedures of British banks  
 4 comes from your work with the MPS, correct?  
 5 A. Yes, that's correct.  
 6 Q. Other than your diploma,  
 7 everything that you know about the regulation  
 8 of British banks comes from your work with  
 9 the MPS, correct?  
 10 A. That's correct, yes. Again,  
 11 just so I qualify it just a fraction, I was  
 12 employed by the MPS. In a lot of fields I  
 13 would undertake background work so I was  
 14 employed by the MPS so I would inform myself  
 15 as it were through reading and speaking to  
 16 people.  
 17 Q. Other than your diploma,  
 18 everything that you know about the regulation  
 19 of British banks comes from your work or  
 20 reading you did in connection with your  
 21 service with the Metropolitan Police Service,  
 22 correct?  
 23 A. Thank you, yes.  
 24 Q. Based on your experience, do  
 25 you agree that U.K. law enforcement agencies

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1 WALTERS  
 2 have more access to intelligence sources than  
 3 do private banks?  
 4 MR. BONNER: Objection to form.  
 5 A. From my experience in working  
 6 with banks they are all very different, but  
 7 from my experience banks had databases at  
 8 times the police did not have and the police  
 9 had databases that banks didn't have.  
 10 Q. What about governmental  
 11 intelligence sources, in your experience who  
 12 had greater access to those, U.K. law  
 13 enforcement authorities or banks?  
 14 A. I think I would have to ask you  
 15 to qualify governmental -- what are  
 16 governmental intelligence sources?  
 17 Q. Th intelligence information  
 18 gained by Her Majesty's Government, in your  
 19 experience who had greater excess to that  
 20 information, U.K. law enforcement or banks?  
 21 A. Again, both those expressions  
 22 of governmental intelligence sources and law  
 23 enforcement are both very sweeping and to  
 24 some extent I would have to say within the  
 25 intelligence world would the banks depending

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1 WALTERS  
 2 on what's been worked on, I don't know if  
 3 banks have access to data that I'm unaware or  
 4 intelligence I'm unaware of.  
 5 Q. You are familiar with an entity  
 6 known as MI5?  
 7 A. I am, yes.  
 8 Q. You are familiar with an entity  
 9 known as MI6?  
 10 A. Yes.  
 11 Q. In your experience did you come  
 12 across any instance in which MI5 or MI6  
 13 shared information with a bank that it did  
 14 not share with law enforcement agencies?  
 15 A. I'm trying to think whether I  
 16 need to qualify my or whether I can answer  
 17 that. I don't think I can answer that  
 18 question.  
 19 Q. Why not?  
 20 A. Because of confidentiality  
 21 issues.  
 22 Q. Were you ever disciplined  
 23 during your career at the MPS?  
 24 A. No.  
 25 Q. Were you ever demoted from a

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1 WALTERS  
 2 Q. Have you ever been asked to  
 3 serve as an expert witness in any court  
 4 proceeding in any country before these cases?  
 5 A. Not that I can recall, no.  
 6 Q. Other than the Shah case, have  
 7 you ever testified as a fact witness either  
 8 through written testimony or oral testimony?  
 9 A. I have given evidence in an  
 10 awful lot of cases.  
 11 Q. Criminal cases?  
 12 A. Criminal cases in the U.K.  
 13 Q. Cases that you were involved in  
 14 investigating as a member of the MPS?  
 15 A. That's correct.  
 16 Q. Have you ever testified in a  
 17 case other than one of those cases?  
 18 A. All the testimony I've given  
 19 has been on cases I've been involved in in  
 20 some way.  
 21 Q. Mr. Walters, you're not  
 22 offering the opinion that Nat West knew that  
 23 Interpal was financing terrorism, are you?  
 24 MR. BONNER: Objection to form.  
 25 A. That's not in my opinions.

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1 WALTERS  
 2 Q. You're not offering the opinion  
 3 that Nat West knew that Interpal was  
 4 providing funds to Hamas, correct?  
 5 A. That's not in my opinions.  
 6 Q. You are not offering the  
 7 opinion that Nat West believed that Interpal  
 8 was financing terrorism, are you?  
 9 A. That's not in my opinions.  
 10 Q. You are not offering the  
 11 opinion that Nat West believed Interpal was  
 12 funding Hamas, correct?  
 13 A. Yeah, that's correct.  
 14 q. You are not offering any  
 15 opinions to the requirements of U.K. law, are  
 16 you?  
 17 MR. BONNER: Objection to form.  
 18 A. I'm just thinking I'm not a  
 19 lawyer, but I have worked with the law for 30  
 20 years as a law enforcement officer. I have  
 21 an awareness of the law, but in forming my  
 22 opinions I cannot divorce it completely from  
 23 what knowledge I do have of the law, but when  
 24 forming those opinions on the circumstances  
 25 that I looked at and the information that I

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1 WALTERS  
 2 have looked at I'm bringing that awareness as  
 3 well as what I experienced on a regular basis  
 4 when dealing with financial crime in  
 5 particular.  
 6 Q. But you're not offering a legal  
 7 opinion as to what U.K. law requires, are  
 8 you?  
 9 MR. BONNER: Objection to form.  
 10 A. I'm not offering a legal  
 11 opinion.  
 12 Q. Look at your rebuttal report  
 13 paragraph 192. Why don't you read that  
 14 paragraph to yourself.  
 15 A. Can I just go back before we  
 16 move on to clarify something in an issue that  
 17 came up earlier. When you presented to me  
 18 the list of ranks within the Metropolitan  
 19 Police Service, as I described earlier it's a  
 20 hierarchal structure, it's a rank structure  
 21 that's been around for a long time, but the  
 22 roles performed by people at the different  
 23 ranks are extremely different and varied with  
 24 areas of responsibility that vary  
 25 accordingly.

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1 WALTERS  
 2 Policing is increasingly a  
 3 complex area so the answer I gave or as you  
 4 pointed out if you'd like it's the third rank  
 5 up or the 10th or 20th rank down which ever  
 6 way you care to put it, but the roles and  
 7 responsibilities can vary greatly between  
 8 people of the same rank and in the roles I  
 9 was playing as a detective inspector, I had  
 10 big areas of responsibility and dealing with  
 11 matters that arguably would normally be dealt  
 12 with by chief officers because I regularly  
 13 met chief officers from other countries and  
 14 dealt with them at that sort of level so I  
 15 just wanted to clarify that point.  
 16 It's not as simple as someone  
 17 is down here or up there. It's a more  
 18 complex equation.  
 19 Q. The areas of responsibility  
 20 that you had are as stated in your CV plus  
 21 the four years that you supplemented this  
 22 morning, correct?  
 23 A. On occasions I was also asked  
 24 to deal with sort of to represent the  
 25 metropolitan police at times on broader



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1 WALTERS  
 2 topics.  
 3 Q. Understood. Look at paragraph  
 4 192 of your rebuttal report.  
 5 A. Thank you.  
 6 Q. Read that to yourself, please.  
 7 You see you refer to the global banking  
 8 standards published by Basel, Wolfsberg and  
 9 FATF, do you see those?  
 10 A. I do.  
 11 Q. When did you first read those?  
 12 A. When I first -- when did I  
 13 first --  
 14 Q. Read those?  
 15 A. Read those terms?  
 16 Q. Read those standards if ever?  
 17 A. I can't recall.  
 18 Q. Have you ever read what you  
 19 describe as the global banking standards  
 20 published by Basel, Wolfsberg and FATF?  
 21 A. I have read a great deal of  
 22 material on -- I have read material from all  
 23 three and in relation to both, not so much  
 24 with Basel, but in relation to the Wolfsberg  
 25 group I was asked to attend a meeting of one

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1 WALTERS  
 2 of their working groups to discuss both  
 3 anti-money laundering policies, procedures  
 4 and that definitely, you know, also included  
 5 counter terror financing.  
 6 In relation to FATF, I had a  
 7 lot of dealings with FATF and their matters.  
 8 I can't recall with any of them when I first  
 9 became aware of them.  
 10 Q. That wasn't my question. My  
 11 question was when did you first read the  
 12 standards that you are referring to here?  
 13 A. I can't recall.  
 14 Q. Did you ever read them?  
 15 A. I have read them. Whether I  
 16 read them all or not I don't know.  
 17 Q. What are the Basel standards  
 18 that you are referring to specifically?  
 19 A. I can't tell you.  
 20 Q. What are the Wolfsberg  
 21 standards you are referring to specifically?  
 22 A. I can't tell you.  
 23 Q. What are the FATF standards you  
 24 are referring to specifically?  
 25 A. I cannot give them off rope.

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1 WALTERS  
 2 Q. Have you read any of those  
 3 during the course of your engagement in these  
 4 cases?  
 5 A. Yes, I have.  
 6 Q. Where did you do that?  
 7 A. I did that during my general  
 8 background reading.  
 9 Q. Who gave them to you?  
 10 A. I took it off the internet.  
 11 Q. Off the Basel website?  
 12 A. I can't recall. I really can't  
 13 recall. It's not just -- I can't recall.  
 14 Q. Did you retain copies of any of  
 15 these standards in your files?  
 16 A. No.  
 17 Q. You read them on the internet,  
 18 you didn't print them out?  
 19 A. No.  
 20 Q. But as you sit here, you can't  
 21 identify specifically any of the Basel,  
 22 Wolfsberg or FATF standards you are referring  
 23 to?  
 24 A. In terms of FATF I have a  
 25 better knowledge because it's closer to the

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1 WALTERS  
 2 work that I was doing than Basel or  
 3 Wolfsberg.  
 4 Q. What specifically by title what  
 5 are the FATF standards that you are referring  
 6 to here, can you tell me?  
 7 A. The 40 plus 9 recommendations.  
 8 Q. Anything else?  
 9 A. They have accompanying guidance  
 10 notes.  
 11 Q. You read the 40 plus 9 in  
 12 connection with your work on these matters?  
 13 A. I read all of those on a number  
 14 of occasions before.  
 15 Q. Did you read them in connection  
 16 with your work on these matters?  
 17 A. I refreshed my memory about  
 18 them.  
 19 Q. Did you read them?  
 20 A. Yes.  
 21 Q. The guidance notes, did you  
 22 read those in connection with your work on  
 23 these matters?  
 24 A. Some. I can't recall all.  
 25 Q. You read them on the internet,

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1 WALTERS  
 2 Q. When you read Ms. McLeod's  
 3 report, do you remember disagreeing with  
 4 anything that was in there?  
 5 A. I can't recall having any major  
 6 issues that upset me.  
 7 Q. I'm sorry if this strikes you  
 8 as a silly question, but the portions of Ms.  
 9 McLeod's report that you used for your  
 10 report, I take it you agreed with those  
 11 portions otherwise you would not have used  
 12 them, correct?  
 13 A. Yes.  
 14 Q. When you read Ms. McLeod's  
 15 testimony, do you recall disagreeing with  
 16 anything she testified to?  
 17 A. I can't recall.  
 18 Q. Do you recall that you did  
 19 disagree with anything she said?  
 20 A. I can't recall.  
 21 Q. You can't recall one way or the  
 22 other or you can't recall that you did  
 23 disagree?  
 24 A. Sorry, you have to say that  
 25 again.

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1 WALTERS  
 2 Q. This comes up in what we do for  
 3 a living all the time. I suspect it came up  
 4 in your police work all the time. When you  
 5 say you don't recall, are you saying you  
 6 don't recall you had a disagreement with  
 7 anything she said or are you saying you don't  
 8 recall whether or not you had a disagreement?  
 9 A. I don't recall having a  
 10 disagreement.  
 11 Q. Look at paragraph 145 of your  
 12 rebuttal report. In that paragraph you refer  
 13 to "the global banking standards". Are you  
 14 referring to the same standards, the same  
 15 global banking standards that you refer to in  
 16 paragraph 192?  
 17 A. Just take a moment to have a  
 18 look at this. I've summed up all of the  
 19 different banking standards that have been  
 20 introduced with a degree of consistency  
 21 around the world with the intention of  
 22 reducing money laundering and terrorist  
 23 financing opportunities so it's a generic  
 24 expression. It takes in -- certainly for me  
 25 it also takes in the standards that

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1 WALTERS  
 2 individual institutions would set themselves  
 3 and countries set so it's all of the  
 4 standards that become in effect and as I  
 5 experience the common practice and the common  
 6 language that's used. It's not the detail of  
 7 the legislation, it's the common practice and  
 8 common language of institutions and bodies  
 9 that I dealt with.  
 10 Q. This is knowledge that you  
 11 gained during the course of your career with  
 12 the Metropolitan Police Service?  
 13 A. Yes.  
 14 Q. What financial institutions,  
 15 what individual institutions are you  
 16 referring to in your penultimate answer? You  
 17 said you were referring to the standards that  
 18 individual institutions would set for  
 19 themselves. What institutions are you  
 20 referring to?  
 21 A. Banks.  
 22 Q. What banks?  
 23 A. Regulated businesses and  
 24 entities.  
 25 Q. What banks are you referring

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1 WALTERS  
 2 to?  
 3 A. Well, all of the banks that I  
 4 dealt with. It was common language and  
 5 practice that they would be talking about  
 6 global standards to prevent and detect money  
 7 laundering and counter terror financing.  
 8 Q. Have you ever read a bank's  
 9 policies and procedures for dealing with  
 10 money laundering?  
 11 A. I've read several.  
 12 Q. Which ones?  
 13 A. That would be confidential.  
 14 Q. Have you ever read a bank's  
 15 internal policies and procedures relating to  
 16 terror financing?  
 17 A. Often they are in the same  
 18 document in my experience, but I've read  
 19 several.  
 20 Q. Which banks?  
 21 A. That would be confidential.  
 22 Q. Again, that's reading you did  
 23 in the course of your career in the MPS?  
 24 A. Yes.  
 25 Q. You also said you were

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1 WALTERS  
 2 Q. Cases that you worked on during  
 3 your career?  
 4 A. Yes.  
 5 Q. With the MPS?  
 6 A. Yes, where I would meet people  
 7 from regulated businesses and we would  
 8 discuss issues.  
 9 Q. Did any of your cases involve  
 10 charities other than the Baluchi case?  
 11 A. Over the years there's a number  
 12 of cases that involved charities in different  
 13 ways and that doesn't just include my time on  
 14 economic and specialist crime. This is  
 15 charities get exploited or abused in  
 16 different ways by different people.  
 17 Q. Did you ever have a case  
 18 involving a charity and suspicions of terror  
 19 financing?  
 20 A. No, I didn't.  
 21 Q. Look at paragraph 193 of your  
 22 rebuttal report. You refer here to arbitrage  
 23 between legal jurisdictions. What do you  
 24 mean by that?  
 25 A. This was a subject that came up

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1 WALTERS  
 2 in various times in discussions with banks  
 3 and other regulated entities and people  
 4 within the regulators. It was including when  
 5 working with government, other government  
 6 departments and legislators where what I mean  
 7 is with increased globalization there is a  
 8 threat that corporations or people can decide  
 9 where they are going to base themselves where  
 10 they are subject to less strict scrutiny and  
 11 regulation which will allow them to operate  
 12 less transparently than else where so easier  
 13 regulation to manage and so what I mean is  
 14 the global standards and practices everybody  
 15 that I dealt with consistently agreed needed  
 16 to be enforced in such a way that  
 17 institutions could not just decide they  
 18 wanted to go else where and develop a  
 19 financial center for instance somewhere that  
 20 had no regulation.  
 21 Q. To your knowledge Nat West has  
 22 always been based in the U.K., correct?  
 23 A. To my knowledge, yes.  
 24 Q. Is it your understanding that  
 25 banks have to apply the counter terrorist

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1 WALTERS  
 2 designations of every country in the world  
 3 regardless of where the banks are located and  
 4 what countries a transaction might involve?  
 5 MR. BONNER: Objection to form.  
 6 A. My experience in speaking with  
 7 financial institutions and regulators was  
 8 that it wasn't just about the legal  
 9 requirements, it was also the spirit of the  
 10 legislation and standards that had been  
 11 bought in and the discussions taking place to  
 12 try and deal with the globalization issue and  
 13 to have the standards so consistent.  
 14 Consistent agreement I found in discussions  
 15 was that people would work to implement the  
 16 highest standards that they operated in and  
 17 in doing that and operating with different  
 18 standards in different places and the  
 19 legislation that applied, sometimes it could  
 20 create tensions in terms of legally they  
 21 would have problems, but they would work to  
 22 the spirit of operating across the globe in a  
 23 way that satisfied all of the requirements in  
 24 areas that they operated.  
 25 Q. To your understanding

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1 WALTERS  
 2 considering the legal requirements, is a  
 3 British bank in its provision of services to  
 4 a British customer required to follow the  
 5 United States counter terrorist designations?  
 6 A. I'm not a lawyer and I don't  
 7 opine on the legal issues.  
 8 Q. To your understanding given the  
 9 spirit of the legislation that you refer to,  
 10 must a British bank serving a British  
 11 customer in Britain abide by the counter  
 12 terrorist designations made by the United  
 13 States?  
 14 MR. BONNER: Objection to form.  
 15 You can answer.  
 16 A. My experience in this --  
 17 Q. I'm asking for your  
 18 understanding.  
 19 A. My understanding is that  
 20 British institutions would take due note of  
 21 the standards being applied and the  
 22 legislation that's applied anywhere they were  
 23 doing business that could effect them in some  
 24 way.  
 25 Q. My question was different. My

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<p>1 WALTERS 2 any law enforcement agency ever complained to 3 Nat West about the extent or quality of the 4 information it was provided? 5 A. From my experience in dealing 6 with these -- 7 Q. I asked you if you have seen 8 any evidence of that? 9 A. I haven't seen any evidence of 10 that. 11 Q. Go to paragraph 12 of your 12 report. Could you read that to yourself. 13 MR. FRIEDMAN: Sorry, should we 14 break for lunch now given the time? 15 MR. BONNER: If you are moving 16 on to something different. 17 MR. FRIEDMAN: Let me just ask 18 about paragraph 12. 19 Q. You write here that the 20 Palestinian territories Jordan and Lebanon 21 were to use your phrase "high risk 22 jurisdictions", correct? 23 A. Yes. 24 Q. What do you mean by the term 25 high risk jurisdictions?</p>	<p>1 WALTERS 2 off the record. The time is 1:06 p.m. 3 June 8, 2011. 4 (Luncheon recess taken at 5 1:06 p.m.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
Page 150	Page 152
<p>1 WALTERS 2 A. The amount of terrorism going 3 on in those regions and as I would understand 4 from my general knowledge that those issues 5 would make those high risk jurisdictions. 6 Q. That's your subjective 7 definition? 8 A. That's my subjective 9 definition. 10 Q. You're aware that FATF from 11 time to time has published a list of high 12 risk jurisdictions, correct? 13 A. Yes. 14 Q. Palestine and Jordan have never 15 appeared on that list, correct? 16 A. I'm not aware of who's been on, 17 who's been off and when they've changed it. 18 It changes over time. 19 Q. You're using your own term, you 20 are not using the FATF term high risk 21 jurisdiction? 22 A. Yes. 23 MR. FRIEDMAN: Why don't we 24 break for lunch. 25 THE VIDEOGRAPHER: We are now</p>	<p>1 WALTERS 2 A F T E R N O O N S E S S I O N 3 (Time Noted: 2:04 p.m.) 4 5 G A R Y W A L T E R S, resumed and testified 6 as follows: 7 8 C O N T I N U E D E X A M I N A T I O N 9 B Y M R. F R I E D M A N: 10 T H E V I D E O G R A P H E R: This is tape 11 four of the deposition of Mr. Gary 12 Walters. We are now back on the 13 record. The time is 2:04 p.m. Today 14 is June 8, 2011. 15 Q. Mr. Walters, please look at 16 paragraph 13 of your rebuttal report. You 17 state here that the fact that Interpal was a 18 charity made it a high customer risk, 19 correct? 20 A. That's right, that's correct, 21 yes. 22 Q. Based on your review of the 23 record, U.K. law enforcement knew that 24 Interpal was a charity, correct? 25 A. Yes, that's correct.</p>

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1 WALTERS  
 2 Q. What's your basis for stating  
 3 that all charities are high risk customers?  
 4 A. From my experience from the  
 5 various standards that get published that  
 6 we've spoken about, the dealings I had with  
 7 banks and regulators there is -- charities  
 8 are recognized as presenting a high risk.  
 9 Q. You're familiar with a charity  
 10 in England known as Guide Dogs for the Blind?  
 11 A. Yes.  
 12 Q. Do you consider that a high  
 13 risk customer because it's a charity?  
 14 A. Every charity would need to be  
 15 assessed separately. In my work I looked at  
 16 a number of other high risk -- recognized  
 17 high risk entities and the risk exists so it  
 18 requires some examination to assess what's  
 19 the level of risk for each individual  
 20 circumstance.  
 21 Q. My question is the following.  
 22 Is Guide Dogs for the Blind a high risk  
 23 customer for a U.K. bank, yes or no?  
 24 A. I think as a charity it still  
 25 exists as a high risk entity, but an

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1 WALTERS  
 2 examination of it and its dealings because I  
 3 think you can't look at any one particular  
 4 risk element in isolation.  
 5 Q. Is Guide Dogs for the Blind a  
 6 high risk customer?  
 7 A. I have not assessed Guide Dogs  
 8 for the Blind.  
 9 Q. You said all charities are high  
 10 risk customers. You said Guide Dogs for the  
 11 Blind is a charity, am I right, therefore  
 12 according to your analysis Guide Dogs for the  
 13 Blind is a high risk customer?  
 14 MR. BONNER: Objection to form.  
 15 A. As I explained I think per se  
 16 all charities are recognized as being  
 17 vulnerable to money laundering and counter  
 18 terror financing in the same way as all  
 19 casinos are seen as a high risk entity. That  
 20 doesn't mean that all casinos are engaged in  
 21 money laundering or terror financing. It  
 22 doesn't mean that all politically exposed  
 23 persons are high risk people. It doesn't  
 24 mean that they are engaged in money  
 25 laundering, terror financing or corruption.

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1 WALTERS  
 2 Q. Therefore as you use the term  
 3 Guide Dogs for the Blind is a high risk  
 4 customer?  
 5 A. In a simple assessment -- I  
 6 think I have to stick with my explanation  
 7 that per se all charities carry a risk of  
 8 money laundering and counter terror  
 9 financing.  
 10 Q. You say in your report that  
 11 charities present a high customer risk,  
 12 correct?  
 13 A. Yes.  
 14 Q. Your report is truthful,  
 15 correct?  
 16 A. Yes.  
 17 Q. Guide Dogs for the Blind is a  
 18 charity, correct?  
 19 A. Yes.  
 20 Q. Therefore Guide Dogs for the  
 21 Blind presents a high customer risk to a  
 22 bank, correct?  
 23 A. As I said in my previous  
 24 answers, all charities are recognized as  
 25 presenting a high risk.

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1 WALTERS  
 2 Q. Including Guide Dogs for the  
 3 Blind?  
 4 A. Including all charities so  
 5 Guide Dogs for the Blind being a charity  
 6 would present a risk.  
 7 Q. A high customer risk?  
 8 A. Would present a high customer  
 9 risk.  
 10 Q. Are you familiar with a charity  
 11 known as the Royal National Life Boat  
 12 Institution?  
 13 A. Yes, I am.  
 14 Q. It's a charity devoted to  
 15 funding rescues at sea, correct?  
 16 A. Yes, it is.  
 17 Q. That's a charity?  
 18 A. It is.  
 19 Q. So therefore in your estimation  
 20 the Royal National Life Boat Institution as a  
 21 bank customer is a high risk customer,  
 22 correct?  
 23 A. I'll answer the same way as I  
 24 answered before that when you have a charity,  
 25 there is a high risk of it being vulnerable



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1 WALTERS  
 2 2003." Nat West explicitly disclosed that  
 3 fact to NCIS, correct?  
 4 A. Yes, they did, yes.  
 5 Q. I'm showing you what's been  
 6 marked as Exhibit 18 which bears the Nat West  
 7 production numbers 52122 through 123. You  
 8 recognize that as Nat West's August 28, 2003  
 9 disclosure to NCIS in which Nat West  
 10 [REDACTED]  
 11 [REDACTED]  
 12 A. Yes.  
 13 Q. This disclosure also references  
 14 [REDACTED]  
 15 [REDACTED]  
 16 A. Yes.  
 17 Q. This also discloses that Nat  
 18 West [REDACTED]  
 19 [REDACTED]  
 20 [REDACTED]  
 21 [REDACTED]  
 22 A. Could you repeat that?  
 23 Q. This also discloses that Nat  
 24 West [REDACTED]  
 25 [REDACTED]

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1 WALTERS  
 2 A. It does.  
 3 Q. It also discloses that [REDACTED]  
 4 [REDACTED]  
 5 [REDACTED]  
 6 A. Yes.  
 7 Q. And it also asks that this  
 8 [REDACTED]  
 9 [REDACTED]  
 10 [REDACTED]  
 11 A. That's correct.  
 12 Q. It also says, [REDACTED]  
 13 [REDACTED]  
 14 [REDACTED] do you see that?  
 15 A. Yes.  
 16 Q. The special branch that's  
 17 referred to here you understand to be the  
 18 special branch that was in charge of  
 19 terrorist financing investigations, correct?  
 20 A. Yes, I do.  
 21 Q. And what do the letters DS  
 22 mean?  
 23 A. Detective sergeant.  
 24 Q. You do not know Neil Bennett?  
 25 A. No.

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1 WALTERS  
 2 Q. You never worked with him?  
 3 A. Not that I'm aware of. I may  
 4 well do, but maybe I'm wrong in that. I may  
 5 know him.  
 6 Q. The NTFIU that's referred to  
 7 here is the same one that you referred to in  
 8 your reports as being the focal point for  
 9 terror financing investigations, correct?  
 10 A. Yes, that's correct.  
 11 Q. So your eighth red flag was  
 12 explicitly disclosed to Scotland Yard by Nat  
 13 West, correct?  
 14 A. Yes.  
 15 Q. Let's look at your red flag  
 16 number nine. I have a specific question for  
 17 you about this red flag. What's your basis  
 18 for saying that it's a red flag if a customer  
 19 sends money to a name that is similar to the  
 20 name of a designated entity if in fact the  
 21 beneficiary is not the same entity as the one  
 22 that's designated?  
 23 A. Within the guidelines and  
 24 standards that are applied to this field of  
 25 work, it is recognized and acknowledged that

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1 WALTERS  
 2 people use different variations of names and  
 3 false identities, the very nature of the work  
 4 says and including in most bank policies they  
 5 recognize this as an issue to require further  
 6 examination if it looks the same. Red flags  
 7 don't mean that there is crime in the broader  
 8 sense going on. What it does is it draws  
 9 attention and raises concern that needs  
 10 addressing and in doing that when you've got  
 11 similar names to one that's on a designated  
 12 list, then for me that is a flag a bit like  
 13 -- that is a red flag that says here's a  
 14 concern, we need to examine it and we need to  
 15 make sure that that's not the same  
 16 organization who swapped a letter. Also  
 17 applicable when different languages are used  
 18 to come into the equation where when it's  
 19 translated into English perhaps it's twisted  
 20 or hyphens are put in where they are not and  
 21 variations on a name.  
 22 Q. It's your understanding that  
 23 the Al Aqsa Foundation is on the OFAC SDN  
 24 list?  
 25 A. Yes.

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1 WALTERS  
2 Q. It's your understanding that  
3 the El Wafa Charitable Society is on the OFAC  
4 SDN list?  
5 A. It is.  
6 Q. What's the basis for that  
7 understanding?  
8 A. I think later I quote the  
9 Treasury websites, U.S. Treasury websites.  
10 Q. Stating that the El Wafa  
11 Charitable Society is an SDN?  
12 A. I'm not sure what it states.  
13 Q. To your understanding that it's  
14 designated?  
15 A. It's my understanding that it's  
16 designated.  
17 Q. Let's look at your red flag  
18 number ten. "Beneficiaries in locations not  
19 in direct relation to Interpal's stated  
20 purpose (transfers to [REDACTED] "  
21 What transfers do you understand Interpal  
22 made to the [REDACTED]?"  
23 A. I'm afraid I can't recall.  
24 Q. Nat West disclosed to law  
25 enforcement that there was at least one

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1 WALTERS  
2 transfer to [REDACTED], correct?  
3 A. I haven't got that disclosure  
4 here in front of me. Do you have a copy?  
5 Q. Are you aware that there was  
6 ever a transfer to [REDACTED]?  
7 A. I believe there was a transfer  
8 to [REDACTED]  
9 Q. Let me show you what's been  
10 marked as Exhibit 20 which bears Nat West  
11 production numbers 52089 through 91. Do you  
12 recognize this as the NCIS disclosure that  
13 Nat West made on June 17, 2002? Do you  
14 recognize this?  
15 A. Yes.  
16 Q. This discloses a transfer to  
17 Interpal's accounts from [REDACTED] correct?  
18 A. From [REDACTED] yes.  
19 Q. As you sit here, do you believe  
20 that there is evidence of a transfer having  
21 been made to [REDACTED]?  
22 A. I would need to go back and  
23 check.  
24 Q. You agree that anyone who read  
25 the NCIS disclosure would know that there was

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1 WALTERS  
2 transfer to Interpal from [REDACTED] correct?  
3 A. Yes.  
4 Q. Why don't you just put that one  
5 in a separate pile Exhibit 20 because we will  
6 come back to it. Look at your red flag  
7 number 11. "Beneficiaries were themselves  
8 charities which constitute significant  
9 customer risk", do you see that?  
10 A. Yes.  
11 Q. Anyone who read the October 15,  
12 2001 NCIS disclosure that we looked at  
13 together would know that fact, correct?  
14 A. They would.  
15 Q. Look at your red flag number 12  
16 which is, "Beneficiaries were sometimes also  
17 benefactors like [REDACTED] for example." What  
18 makes that a red flag?  
19 A. If someone is sending money in  
20 one direction and then it comes back in the  
21 other direction, that should raise a concern  
22 that what is the motivation behind that  
23 transfer unless there were clear reasons  
24 within the customer profile that have already  
25 documented why that will be happening.

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1 WALTERS  
2 Q. You know that [REDACTED] is  
3 ostensibly at least a charity, correct?  
4 A. I understand that to be the  
5 case.  
6 Q. Interpal is a charity?  
7 A. Yes.  
8 Q. So monies going between  
9 Interpal and [REDACTED] would be monies going  
10 between two charities, correct?  
11 A. Yes.  
12 Q. Look at red flag number 13.  
13 A. Can I just qualify my last  
14 answer that when that red flag is raised as  
15 with other red flags it's a reason to examine  
16 the threat and then mitigate any risk and  
17 make decisions based on knowledge of customer  
18 and knowledge of customer, knowledge of  
19 business as to is there a reason for it and  
20 then explore what that may be.  
21 Q. When you say that you are  
22 applying red flags that you learned of when  
23 you were with the Metropolitan Police  
24 Service, you would expect that law  
25 enforcement authorities who learned of these

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1 WALTERS  
2 information.  
3 Q. Mr. Walters, you really need to  
4 answer my question. Did you consider --  
5 MR. BONNER: Just because Larry  
6 insinuates that you are not answering  
7 the question doesn't mean you are not  
8 answering his question.  
9 Q. My question is the following.  
10 Did you ever consider -- did you Gary Walters  
11 ever consider the fact that this person was  
12 the recipient of an educational grant from  
13 Interpal, yes or no?  
14 A. My experience and training and  
15 background leads me to retain a very open  
16 mind about what things are and what the  
17 reasons are. In this particular case we are  
18 dealing with a very unusual payment by wire  
19 transfer to a country that has no apparent  
20 link, no obvious link because they don't make  
21 these payments on a regular basis to an  
22 individual and they have in their report said  
23 student grant, but it would require further  
24 examination to find out whether that was in  
25 the very nature of money laundering. It's

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1 WALTERS  
2 made to look clean with reasonable  
3 explanation.  
4 Q. You think this is a red flag of  
5 money laundering?  
6 A. For money laundering red money  
7 laundering or counter terror financing. My  
8 experience is it doesn't tend to be flagged  
9 out as this is either criminal money or  
10 terrorist money being sent. They will find a  
11 cover that says this is going to a student.  
12 I don't know who that person is.  
13 Q. I want to make sure that I  
14 understand you carefully because you are  
15 under oath.  
16 A. I am.  
17 Q. Before I asked you today you  
18 remember seeing that this document indicated  
19 that the money was being paid to [REDACTED]  
20 [REDACTED] for a student grant?  
21 A. Yes, I do.  
22 Q. You don't refer to that in the  
23 paragraph in which you discuss this payment,  
24 do you?  
25 A. Well, when I was examining all

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1 WALTERS  
2 the material, I was looking at what did Nat  
3 West do about it, not what would Gary Walters  
4 do about it. I took a view that they sent  
5 money off to an individual in an obscure --  
6 [REDACTED] is not an obscure location, but in a  
7 location they would not normally transfer  
8 money to. The reason for the transfer is a  
9 student grant, that's what's been put down.  
10 Whether that is or is not what it's about is  
11 a different matter. I don't draw judgment on  
12 that because I'm not investigating that. I'm  
13 not asking the questions that I feel from all  
14 my experience that when this red flag comes  
15 up it should be questioned. When the red flag  
16 appears it should be dealt with and analyzed  
17 and assessed and evaluated and an  
18 investigation of some kind conducted in order  
19 that a decision could be reached is this  
20 suspicious or not suspicious.  
21 Q. Mr. Walters, in your report in  
22 paragraph 34 you describe these transactions  
23 as having "no apparent explanation", correct?  
24 MR. BONNER: No apparent  
25 relationship.

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1 WALTERS  
2 A. Bearing no apparent  
3 relationship to Interpal's stated purposes or  
4 geographic area of focus.  
5 Q. Read on, sir. They are your  
6 words. Should have been seen minimally as  
7 unusual transactions with no apparent  
8 explanation so my question stands you  
9 described these transactions as having "no  
10 apparent explanation", correct?  
11 A. Yes, I did.  
12 Q. The documents that you just  
13 testified under oath you saw before do reveal  
14 an apparent explanation namely a student  
15 grant, correct, yes or no?  
16 A. That is an apparent explanation  
17 so yes.  
18 Q. Therefore your statement in  
19 your report that these transactions had no  
20 apparent explanation was a mistake, correct?  
21 A. I'd accept that I made a  
22 mistake there. I apologize.  
23 Q. Look at your report paragraph  
24 67 and 68. Read those to yourself. Have you  
25 read those?



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1 WALTERS  
2 A. Yes.  
3 Q. As reflected in your quotation  
4 from Nat West's SAR about [REDACTED]  
5 contributions Nat West expressly disclosed  
6 this to law enforcement, correct?  
7 A. They did make a disclosure,  
8 yes.  
9 Q. So if this were as you indicate  
10 in paragraph 68 another red flag against the  
11 Interpal account Nat West explicitly  
12 disclosed it to law enforcement, correct?  
13 A. My experience of examining  
14 suspicious activity reports that are sent to  
15 the police if it's not fully set out could  
16 make it difficult to identify all of the side  
17 issues to one particular report.  
18 Q. Did you learn from anyone at  
19 law enforcement that they had any difficulty  
20 identifying any side issues concerning  
21 Interpal?  
22 A. No.  
23 Q. Let me go back to my prior  
24 question. If this were as you indicate in  
25 paragraph 68 another red flag against the

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1 WALTERS  
2 Interpal account, your words, Nat West  
3 explicitly disclosed it to law enforcement,  
4 correct?  
5 A. They did disclose it to law  
6 enforcement.  
7 Q. I'd like you to look at  
8 paragraph 30 of your report. I'd like you to  
9 look at the last two sentences. Is it  
10 accurate that you saw no documentation of  
11 communication between Nat West and the  
12 Charity Commission in connection with the  
13 1996 investigation?  
14 A. I can't recall seeing any.  
15 Q. Let me show you what's been  
16 marked as Exhibit 23 which bears the Nat West  
17 production number 16498 and ask you did you  
18 ever see that document before?  
19 A. I don't recall this document.  
20 Q. This contradicts what you said  
21 in your report, right, this is communication  
22 between Nat West and the Charity Commission  
23 concerning the 1996 investigation, correct?  
24 A. In terms of this I would accept  
25 that in order for the bank to have been

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1 WALTERS  
2 informed that they needed to place a stop on  
3 the account as a better expression they would  
4 have received some contact in order to inform  
5 them.  
6 Q. You're aware that the bank was  
7 also informed that the freeze was lifted when  
8 the Charity Commission concluded its  
9 investigation, correct?  
10 A. And they would have been  
11 informed that it's been lifted.  
12 Q. I'd like you to look at  
13 paragraph 37 of your report.  
14 A. When I said in paragraph 30 I  
15 would have expected to find communication, I  
16 was talking about rather more than a stop the  
17 account and you can open the account.  
18 Q. Do you know whether Nat West  
19 and Charity Commission personnel spoke to one  
20 another during the course of the  
21 investigation?  
22 A. I haven't got details of who  
23 spoke to who. I would presume that they  
24 would have done, but I have not seen any  
25 record.

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1 WALTERS  
2 Q. You have not seen it in  
3 writing?  
4 A. I have seen a letter that we  
5 referred to earlier where it says there has  
6 been discussions.  
7 Q. Do you have any reason to  
8 believe that's untrue?  
9 A. No, but I would have expected  
10 to have seen more documentation about  
11 discussions during meetings.  
12 Q. Here you say there was no  
13 communication, but you just told me that you  
14 read -- you said there's no documentation of  
15 communication, but you did read that there  
16 were discussions between the Charity  
17 Commission and Nat West, correct?  
18 MR. BONNER: Objection to form.  
19 Q. You did see documentary  
20 evidence that there were discussions,  
21 correct?  
22 A. If I read my paragraph I say I  
23 would have, well, you have to take the whole  
24 paragraph I think. I didn't see any  
25 documentation of any due diligence or account

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1 WALTERS  
 2 monitoring being undertaken at the time the  
 3 account was frozen and from my experience I  
 4 would have expected, for example, an  
 5 assessment as to all the account activity  
 6 preceding the freezing order. I would have  
 7 also expected to find documentation of  
 8 communication between the defendant and  
 9 Charity Commission and even special branch.  
 10 The lack of documentation -- I'm not saying  
 11 there's no documentation, but in any event I  
 12 haven't seen anything that indicates there  
 13 was any investigation of its own around that  
 14 '96 investigation.  
 15 Q. When you were the operational  
 16 head of the MLIT of the Metropolitan Police  
 17 Service, did you have occasion during the  
 18 course of your money laundering  
 19 investigations to speak with bank personnel?  
 20 A. Yes, I did.  
 21 Q. Often?  
 22 A. Often.  
 23 Q. Did you write an internal memo  
 24 every time you spoke to bank personnel?  
 25 A. In relation to investigations

Page 202

1 WALTERS  
 2 there was always a record kept of the details  
 3 of investigation.  
 4 Q. Did you always write a record  
 5 of your communications with banks?  
 6 A. In relation to specific  
 7 investigations, yes.  
 8 Q. Otherwise?  
 9 A. If I wasn't talking about  
 10 specific cases, not always.  
 11 Q. Did you ask the banks to write  
 12 a record of every one of your communications  
 13 with them?  
 14 A. My experience was that banks  
 15 and others would often keep records of  
 16 communications with me.  
 17 Q. It's not my question. My  
 18 question was did you ask the banks to write  
 19 records of their communication with you?  
 20 A. On specific investigations or  
 21 general meetings?  
 22 Q. When you had a conversation  
 23 with a banker during the course of one of  
 24 your money laundering investigations, did you  
 25 ever tell the banker I want you for your own

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1 WALTERS  
 2 records to write an internal memo of this  
 3 communication?  
 4 A. I didn't specifically ask them  
 5 to keep a record.  
 6 Q. Let's look at paragraph 37 of  
 7 your report.  
 8 A. Just to clarify that last one  
 9 to go on, my own experience was that banks  
 10 would sometimes write to me to confirm the  
 11 meetings that I had with them.  
 12 Q. Look at paragraph 37 of your  
 13 report. That indicates that you're aware  
 14 that Nat West reported the cryptome report to  
 15 NCIS, correct?  
 16 A. Yes.  
 17 Q. Let me show you what's been  
 18 marked as Exhibit 24. You recognize this to  
 19 be Nat West's disclosure to NCIS of the  
 20 [REDACTED] correct?  
 21 A. Yes.  
 22 Q. That disclosure [REDACTED]  
 23 [REDACTED]  
 24 [REDACTED]  
 25 A. Yes, it does.

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1 WALTERS  
 2 Q. NCIS had computers in September  
 3 2001, correct?  
 4 A. Yes.  
 5 Q. NCIS had access to the internet  
 6 in September 2001, correct?  
 7 A. Yes.  
 8 Q. Your experience NCIS employees  
 9 understood how to read URLs, correct?  
 10 A. From my experience, yes.  
 11 Q. Are you aware of any evidence  
 12 that NCIS ever asked Nat West for more  
 13 [REDACTED] ?  
 14 A. Not that I can recall.  
 15 Q. Do you agree with me that U.K.  
 16 law enforcement had the ability to read the  
 17 cryptome report because Nat West called it to  
 18 their attention?  
 19 A. Yes.  
 20 Q. Do you agree with me that U.K.  
 21 law enforcement had the ability to  
 22 [REDACTED]  
 23 [REDACTED]  
 24 A. For ability I would qualify it  
 25 with a resource issue at that time.

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1 WALTERS  
2 Q. Assuming they had the resources  
3 did you think --  
4 A. That's a big assumption because  
5 this is in late September 2001 and there was  
6 quite a lot of activity particularly around  
7 the terrorism per se and I'm not able to say  
8 that they would have had the resources at  
9 that time in order to focus them on to this  
10 particular matter.  
11 Q. Fair enough. At that time did  
12 U.K. law enforcement have the professional  
13 capability, the professional skills to  
14 [REDACTED]  
15 [REDACTED]  
16 A. They wouldn't necessarily have  
17 had access to the information. They wouldn't  
18 have had access to all the information in the  
19 RBS without getting court orders in order to  
20 obtain it.  
21 Q. They had the ability to get  
22 that information from Nat West if they wanted  
23 it, correct, by means of a production order?  
24 A. There is a few ifs there, but  
25 if they had the resources and decided to do

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1 WALTERS  
2 it, they could have obtained the material.  
3 Q. From Nat West?  
4 A. From Nat West.  
5 Q. To your knowledge they never  
6 did so, correct?  
7 A. Not that I'm aware.  
8 MR. FRIEDMAN: Let's take a  
9 break.  
10 THE VIDEOGRAPHER: We're now  
11 off the record. The time is 3:18  
12 p.m., June 8, 2011.  
13 (Recess taken.)  
14 THE VIDEOGRAPHER: This is tape  
15 five of the deposition of Mr. Gary  
16 Walters. We are now back on the  
17 record. The time is 3:27 p.m., June  
18 8, 2011.  
19 Q. Mr. Walters, I would like you  
20 to look again at paragraph 37 of your report.  
21 Specifically your statement as follows.  
22 Further, Mr. Hoseason used a letter in this  
23 instance referring to Exhibit 24 because he  
24 felt the need for urgency to convey the  
25 information. You cite Mr. Hoseason's

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1 WALTERS  
2 transcript at pages 202 and 203, do you see  
3 that?  
4 A. Yes.  
5 Q. You read Mr. Hoseason's  
6 transcript in order to be able to say that,  
7 correct?  
8 A. I did, yes.  
9 Q. I'm going to show you what's  
10 been marked as Exhibit 25 which is the  
11 transcript of Mr. Hoseason and ask you to  
12 turn to page 203. Let me read to you the  
13 testimony that I would like you to focus on.  
14 Line 8.  
15 "Question: Can you explain why  
16 you would have felt that there was  
17 some urgency to convey this  
18 information to NCIS?  
19 "Answer: It was very shortly  
20 after the events of 11 September. We  
21 were making a significant number of  
22 disclosures to NCIS at the time. As I  
23 think I mentioned before, we were very  
24 concerned not to fall short in terms  
25 of our reporting obligations. The

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1 WALTERS  
2 reason I suggested that we sent this  
3 letter was because with a certain  
4 amount of further review to be done,  
5 we were not in a position to put  
6 together anything more meaningful at  
7 the time. The form itself, the  
8 disclosure form, did not really suit  
9 putting that kind of information into  
10 it so it was more expedient to produce  
11 a short letter like this."  
12 Do you see that?  
13 A. I do.  
14 Q. Did you read that testimony  
15 before you wrote your report?  
16 A. Yes, I did.  
17 Q. You have no reason to doubt  
18 that that is a truthful explanation for the  
19 urgency that Mr. Hoseason felt, correct?  
20 A. Well, I know from the letter  
21 that in the letter itself Mr. Hoseason  
22 informs them that as I state in my report he  
23 does say [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

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1 WALTERS  
2 [REDACTED] so, you know, to  
3 that extent I can understand that he wants  
4 law enforcement to be informed that there is  
5 a significant event related to the account  
6 and as I understand he said himself he wanted  
7 to let law enforcement know as he puts it  
8 that they are on top of the situation.  
9 Q. He wanted to do it as soon as  
10 he could, correct?  
11 A. Well, he says we are [REDACTED]  
12 [REDACTED] so I would  
13 imagine that if that's right then they would  
14 have been actively doing it there and then.  
15 Q. I'd like you to go back to  
16 Exhibit 17 which we looked at this morning,  
17 I'm sorry, which we looked at before the  
18 break. Do you have that in front of you?  
19 A. I have.  
20 Q. I would like you to look at  
21 paragraph 39 of your report. In the first  
22 sentence of paragraph 39 you say that the  
23 cryptome disclosure, Exhibit 24, made no  
24 mention of -- I'm sorry, in the first  
25 sentence of paragraph 39 you say that Exhibit

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1 WALTERS  
2 17 made no mention of the cryptome report or  
3 the letter sent to NCIS, correct?  
4 A. I do say that.  
5 Q. Look at the first sentence of  
6 the disclosure in Exhibit 17. It begins with  
7 the following. [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED] do you see that?  
12 A. I do.  
13 Q. If I told you that ID 140425 is  
14 the NCIS identification number for the  
15 [REDACTED] Exhibit 24, then you  
16 would agree with me that this disclosure does  
17 refer to the cryptome disclosure that was  
18 made to NCIS, correct?  
19 MR. BONNER: Objection to form.  
20 A. Have I got Exhibit 24?  
21 Q. It's the last exhibit we looked  
22 at. Let me take this in a different  
23 direction. When the bank makes a disclosure  
24 to NCIS, NCIS assigns an identification  
25 number to the disclosure, correct?

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1 WALTERS  
2 A. Yes.  
3 Q. You see that the disclosure in  
4 Exhibit 17 uses the -- identifies the Nat  
5 West previous disclosure with the number  
6 140425, correct?  
7 A. Yes.  
8 Q. Do you recognize that to be an  
9 NCIS identification number?  
10 A. Yes.  
11 Q. If that is the NCIS  
12 identification number for Exhibit 24, the  
13 letter, you recognize that number to be an  
14 NCIS identification number, correct?  
15 A. I believe so, yes.  
16 Q. If that is the number that NCIS  
17 assigned to Exhibit 17, the first disclosure,  
18 then in fact, I'm sorry, if the 140425 number  
19 is what NCIS assigned to Exhibit 24, then  
20 Exhibit 17 does in fact refer to the prior  
21 disclosure, correct?  
22 MR. BONNER: Objection to form.  
23 Calls for speculation.  
24 A. There is a non specific cross  
25 reference. From my experience I would have

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1 WALTERS  
2 expected having had and these things --  
3 sometimes things happen, I would have  
4 expected that having heard that there was a  
5 -- they were undertaking a thorough review of  
6 the activity through the accounts with a view  
7 to making a full disclosure in due course  
8 with so much information available to the  
9 bank for them to examine based on the  
10 cryptome report I would have expected the  
11 disclosure to include all of the information  
12 they had available rather than a summary that  
13 is not set into context.  
14 Q. First of all, you referred to a  
15 non specific cross reference. The non  
16 specific cross reference is to an NCIS  
17 identification number, correct?  
18 A. I apologize, I did not mean it  
19 in that way. Sorry to interrupt.  
20 Q. The non specific cross  
21 reference is a cross reference to an NCIS  
22 identification number for the prior document,  
23 correct?  
24 A. It is.  
25 Q. NCIS knows its own

1 WALTERS  
 2 identification numbers, correct?  
 3 A. Yes.  
 4 Q. So the second report uses an  
 5 NCIS identification number and the first  
 6 disclosure says that [REDACTED]  
 7 [REDACTED]  
 8 [REDACTED] do you see that?  
 9 A. Yes.  
 10 Q. The second disclosure which has  
 11 a cross reference to the NCIS ID number that  
 12 I'm asking you to assume is the NCIS ID  
 13 number for the first disclosure which in fact  
 14 it is, says, further to our previous  
 15 disclosure and there is the ID number a  
 16 review of all sterling accounts held by our  
 17 customer shows in the main etc., etc.,  
 18 correct?  
 19 A. Yes.  
 20 Q. So Exhibit 17 reports the  
 21 results of the review that is described in  
 22 Exhibit 24, correct?  
 23 MR. BONNER: Objection to form.  
 24 A. My experience in dealing with  
 25 banks and what I would have expected with all

1 WALTERS  
 2 my experience of having dealt with these  
 3 would have been that a full review would  
 4 contain far more information than they have  
 5 sent. A full review would have analyzed all  
 6 of the accounts thoroughly and set it into  
 7 context and that's what I would have been  
 8 expecting the bank to do.  
 9 Q. I appreciate that, Mr. Walters,  
 10 and thank you for sharing with me what you  
 11 would have expected, but my question was  
 12 different. My question is as you read them  
 13 today, Exhibit 17 reports the results of the  
 14 review that's described in Exhibit 24,  
 15 correct?  
 16 MR. BONNER: Objection to form.  
 17 Go ahead, you can answer.  
 18 A. Yes, it does.  
 19 Q. It does so using NCIS' own  
 20 identification number for the prior  
 21 disclosure, correct?  
 22 A. That relates to the letter  
 23 saying we're doing a full --  
 24 Q. Yes.  
 25 A. -- report, yes.

1 WALTERS  
 2 Q. Have you seen any evidence that  
 3 Nat West failed to answer any follow up  
 4 questions posed by NCIS?  
 5 A. Not that I recall, no.  
 6 Q. Have you seen any communication  
 7 from NCIS saying we would have expected that  
 8 you would have told us something more and put  
 9 it in context? Did you see anything that said  
 10 that?  
 11 A. No, I haven't seen anything  
 12 that says that.  
 13 Q. In fact, you're aware of  
 14 subsequent communications from NCIS and NTFIU  
 15 that say to Nat West thank you for your  
 16 disclosures, but we don't need any more,  
 17 correct?  
 18 MR. BONNER: Objection to form.  
 19 A. I think we need to go and refer  
 20 to where that is in my report or the  
 21 documents. I would like to see the  
 22 documents.  
 23 Q. You're aware, we will look at  
 24 the documents, but you're aware that on a  
 25 couple of occasions after Exhibit 17 Nat West

1 WALTERS  
 2 recorded having spoken with Mark Ashtown and  
 3 others about making further disclosures and  
 4 Nat West was told by law enforcement that no  
 5 further disclosure was needed, correct?  
 6 MR. BONNER: Objection to form.  
 7 A. From recollection those  
 8 communications were not related to these  
 9 disclosures. These are other matters.  
 10 Q. They are related to Interpal,  
 11 correct?  
 12 A. They are related to Interpal,  
 13 but not this particular instance.  
 14 Q. You haven't seen anything where  
 15 anyone from law enforcement said to Nat West  
 16 in substance we need more disclosure about  
 17 the [REDACTED] have you?  
 18 A. I think to set it into context  
 19 the activity drivers for want of a better  
 20 term for law enforcement is that judgments  
 21 would be made, there would be a trust with  
 22 the banks, it consistently happened a trust  
 23 with the banks that this is all the  
 24 information that's available so that's my  
 25 experience and then you make a judgment on



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1 WALTERS  
 2 it down in a memo, you think it would be  
 3 speculative despite your experience with  
 4 bankers to say that that memo would not have  
 5 been shown to anybody?  
 6 MR. BONNER: Objection to form.  
 7 A. Would not have what?  
 8 Q. Would have been shown to  
 9 somebody?  
 10 MR. BONNER: Objection.  
 11 A. Within this case there are a  
 12 couple of other instances where people said  
 13 they would do things and then nothing  
 14 happened for a long time.  
 15 Q. Look at paragraph --  
 16 A. I would have expected bankers  
 17 to have done what they said they would do.  
 18 Q. Look at paragraph 57 of your  
 19 rebuttal report. Why don't you read that to  
 20 yourself.  
 21 A. Yes.  
 22 Q. You see that there was no  
 23 guidance given to Ms. Lane with respect to  
 24 balancing the risk of tipping off with the  
 25 need for further information, correct?

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1 WALTERS  
 2 A. I haven't seen it or I don't  
 3 recall seeing it.  
 4 Q. Did you read her deposition  
 5 testimony?  
 6 A. I did.  
 7 Q. Do you remember that she  
 8 testified about her training on tipping off?  
 9 A. I don't recall that particular  
 10 thing. Perhaps I could read it.  
 11 Q. Let me show you what's been  
 12 marked as Exhibit 31 which is the deposition  
 13 transcript of Belinda Lane and ask you to  
 14 look at page 234, line 6 through 21. I'll  
 15 ask you to read that to yourself. Did you  
 16 read that testimony before you signed your  
 17 report?  
 18 A. I'm still reading.  
 19 Q. Sorry.  
 20 A. Just trying to get it into  
 21 context here.  
 22 Q. Did you read that before you  
 23 signed your report?  
 24 A. Yes, I did.  
 25 Q. You could put that aside.

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1 WALTERS  
 2 A. In a case like this that's a  
 3 one off case, just to finish my answer from  
 4 the last one, I read that, but in this one  
 5 it's a specific very special account and I  
 6 would have anticipated that she would have  
 7 received some bespoke guidance on what to ask  
 8 and what to not to ask.  
 9 MR. FRIEDMAN: I move to strike  
 10 everything after yes, I did.  
 11 Q. Look at paragraph 64 of your  
 12 rebuttal report.  
 13 MR. BONNER: Paragraph 64,  
 14 right?  
 15 Q. Your reference to the first SAR  
 16 is to the SAR providing the URL for the  
 17 cryptome report, correct?  
 18 A. I believe so, yes. Yes.  
 19 Q. Look at paragraph 161 of your  
 20 report. You write, "Suspensions of links to  
 21 terrorist financing was raised again by  
 22 payment of [REDACTED]  
 23 [REDACTED]  
 24 [REDACTED] which led to an SAR being  
 25 filed submitted internally stating possible

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1 WALTERS  
 2 umbrella for funding terrorism in the Middle  
 3 East (NW 00834 to 380)", do you see that?  
 4 A. I do.  
 5 Q. Did you look at that document  
 6 before you signed your report containing that  
 7 paragraph?  
 8 A. Yes.  
 9 Q. Let's mark as Exhibit 32 the  
 10 document you cite and let's mark as Exhibit  
 11 33 a goalkeeper report dated three days  
 12 later. Putting those in front of you. Do  
 13 you recognize Exhibit 32 to be the document  
 14 you reference in paragraph 161? Question is  
 15 do you recognize Exhibit 32 as the document  
 16 you reference in paragraph 161?  
 17 A. Obviously there is a page been  
 18 taken out.  
 19 Q. It's because it's a blank page,  
 20 but in paragraph 161 you refer to a document  
 21 bearing the production numbers 8374 to 380  
 22 and Exhibit 2 has the same production  
 23 numbers, correct?  
 24 A. Yes.  
 25 Q. You recognize Exhibit 33 as a

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1 WALTERS  
2 Where did you get the name [REDACTED]  
3 from?  
4 A. I shortened it to that.  
5 Q. You also don't see [REDACTED]  
6 name on either the OFAC designation list or  
7 the Bank of England designation list,  
8 correct?  
9 A. That's correct.  
10 Q. Look at paragraph 108 of your  
11 report. You say there that at this time in  
12 2003 [REDACTED] was a high risk jurisdiction, do  
13 you see that?  
14 A. Yes.  
15 Q. What's your basis for referring  
16 to Yemen there as a high risk jurisdiction?  
17 A. I believe in 2003 there were  
18 various difficulties in the Middle East.  
19 Q. Is it your subjective  
20 determination that it was a high risk  
21 jurisdiction?  
22 A. Subjective is an interesting  
23 word. I draw on my experience and knowledge  
24 to assess these documents.  
25 Q. Nat West -- FATF publishes

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1 WALTERS  
2 lists of high risk jurisdictions, right?  
3 A. They do.  
4 Q. Has [REDACTED] ever been listed?  
5 A. I'm not aware.  
6 Q. Do you know of any other entity  
7 that publishes lists of high risk  
8 jurisdictions other than FATF?  
9 A. As I sit here now I'm not  
10 aware.  
11 Q. Look at paragraph 165 of your  
12 report. Read that to yourself.  
13 A. Yes.  
14 Q. This relates to the telephone  
15 call that Mr. O'Hear made to Mr. Ashtown that  
16 we read about in Exhibit 44, correct?  
17 A. Yes, it does.  
18 Q. Also in Exhibit 34?  
19 A. Yes.  
20 Q. You say, "This additional  
21 information was passed to law enforcement,  
22 but not officially disclosed." By that you  
23 mean it was disclosed in a telephone call?  
24 A. Yes, I do and not through the  
25 normal suspicious activity reporting regime.

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1 WALTERS  
2 Q. In that telephone call  
3 according to what you see before you, Mr.  
4 Ashtown told Mr. O'Hear that [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 correct?  
8 A. I'm not sure without going back  
9 the exact wording, he [REDACTED]  
10 [REDACTED]  
11 Q. Have you ever seen that NTFIU  
12 special branch ever subsequently told Nat  
13 West that it should make additional  
14 disclosure on this subject?  
15 A. My experience would be that  
16 this is just in relation to this verification  
17 of the information that they had and not an  
18 on going expansion into you don't need to  
19 bother with anything else.  
20 Q. My question was a little bit  
21 different. In fact a lot different. Have  
22 you seen any evidence that following this  
23 conversation between Mr. Ashtown and Mr.  
24 O'Hear anyone in law enforcement asked Nat  
25 West to make a written disclosure on this

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1 WALTERS  
2 subject?  
3 A. On this particular bit?  
4 Q. Yes.  
5 A. Not on this particular  
6 transaction.  
7 Q. As you understand the record,  
8 Nat West called special branch, called the  
9 NTFIU special branch and disclosed this  
10 information and Mr. Ashtown told Nat West  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED] correct?  
14 A. Yes.  
15 Q. He also said that  
16 investigations are on going here and that he  
17 will be back in touch, correct?  
18 A. Yes.  
19 Q. He also said that [REDACTED]  
20 [REDACTED]  
21 [REDACTED] correct?  
22 A. Yes.  
23 Q. You're criticizing Nat West for  
24 not submitting an updated disclosure on this,  
25 correct?

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1 WALTERS  
 2 A. Yes.  
 3 Q. In paragraph 91 you say, "In my  
 4 review of the defendant's documents I have  
 5 not identified any documentation of any  
 6 significant KYC or due diligence being  
 7 undertaken by the defendant after the OFAC  
 8 designation of Interpal", correct?  
 9 A. Which paragraph is that, sir?  
 10 Q. 91.  
 11 A. That's correct.  
 12 Q. Let me show you Exhibits 38, 39  
 13 and 40. 38 bears the Nat West production  
 14 numbers 16767 through 16774, 39 bears the Nat  
 15 West production numbers 66721 through 23 and  
 16 40 bears the production numbers Nat West 667  
 17 to 740. Please take a look at these three  
 18 exhibits. Have you seen these before?  
 19 A. Yes.  
 20 Q. These documents reflect reviews  
 21 of all payments made from Interpal's accounts  
 22 at Nat West by Guy Cole after the OFAC  
 23 designation, correct?  
 24 A. Let me have a moment to read  
 25 it, please.

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1 WALTERS  
 2 Q. These documents reflect the  
 3 fact that after OFAC's designation of  
 4 Interpal Nat West conducted on an on-going  
 5 basis semi-annual reviews of all payments in  
 6 Interpal's accounts, correct?  
 7 MR. BONNER: Objection to form.  
 8 A. There is a record here of a  
 9 semi-annual report.  
 10 Q. It also shows that Nat West  
 11 also made a retrospective analysis of all  
 12 payments in Interpal's accounts as well,  
 13 correct?  
 14 A. There is some analysis done.  
 15 Q. Had you read these documents  
 16 before you signed your report containing  
 17 paragraphs 86 and 91?  
 18 A. I had.  
 19 Q. Now look at paragraph 127.  
 20 A. I was just pausing to frame the  
 21 rest of that answer.  
 22 Q. I asked if you looked at it and  
 23 you said you had?  
 24 A. I had. My opinion as I voiced  
 25 it in the report is that I would have

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1 WALTERS  
 2 expected that this would have taken place a  
 3 lot sooner than it did.  
 4 Q. Okay.  
 5 A. My experience would be when  
 6 there's a matter like this is that the sort  
 7 of research and review and due diligence  
 8 would take place immediately.  
 9 Q. These documents show that Nat  
 10 West conducted semi-annual reviews of  
 11 Interpal's accounts into 2005, correct?  
 12 A. There's one semi-annual review  
 13 that's recorded here.  
 14 Q. In 2005?  
 15 A. In 2005.  
 16 Q. That's Exhibit 40?  
 17 A. On 40, yes.  
 18 Q. I'll represent to you just so  
 19 you are not unclear about this issue that  
 20 that is because of the agreement between the  
 21 parties on the cut off date for document  
 22 productions it did not extend into 2006. I  
 23 didn't want you to be uncertain about why  
 24 there's nothing for 2006.  
 25 A. Thank you very much.

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1 WALTERS  
 2 Q. Look at paragraph 127 of your  
 3 report. In paragraph 127 you say among other  
 4 things that as of April 21, 2004 no  
 5 additional due diligence had been completed,  
 6 correct?  
 7 A. It refers in my report to a  
 8 previous chain of e-mails. I don't want to  
 9 take things out of context. Maybe I should  
 10 remind myself what the previous chain of  
 11 e-mails were.  
 12 Q. Look at Exhibit 38.  
 13 A. Yeah.  
 14 Q. That contains a report of due  
 15 diligence conducted by Mr. Cole dated May 20,  
 16 2004, correct, as well as May 17, 2004?  
 17 A. 38 is some research done by Guy  
 18 Cole.  
 19 Q. In May of 2004?  
 20 A. In May 2004.  
 21 Q. In May 2004, correct?  
 22 A. May 2004.  
 23 Q. Look at paragraph 87 of your  
 24 report, Mr. Walters. I would like you to  
 25 read the second sentence and let me read it



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1 WALTERS  
 2 aloud. Mr. Roger, Irvin Roger as head of the  
 3 money laundering prevention unit within the  
 4 corporate banking financial markets division  
 5 which included Interpal within its customer  
 6 responsibility should have understood that  
 7 the designation of Interpal by OFAC meant  
 8 that the U.S. Government was making clear its  
 9 belief that Interpal was involved in funding  
 10 terrorism. Do you see that?  
 11 A. Yes.  
 12 Q. Is it your understanding that  
 13 Mr. Roger did not understand that the  
 14 designation of Interpal by OFAC meant that  
 15 the U.S. Government was making clear its  
 16 belief that Interpal was involved in funding  
 17 terrorism?  
 18 A. I understood that he would  
 19 understand it.  
 20 Q. You based on your reading of  
 21 his deposition testimony know that he  
 22 testified that he did understand that,  
 23 correct?  
 24 A. Yes.  
 25 Q. Look at paragraph 109 of your

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1 WALTERS  
 2 report. Read that to yourself.  
 3 A. Yes.  
 4 Q. You state here among other  
 5 things that you have seen no responses to  
 6 Damien Connors' August 26, 2003 e-mail,  
 7 correct?  
 8 A. Yes.  
 9 Q. Let me show you what's been  
 10 marked as Exhibit 42 which contains a number  
 11 of documents. Aren't those all responses to  
 12 Damien Connors' August 26, 2003 e-mail?  
 13 MR. BONNER: I think to be  
 14 clear, Larry, it says I've not  
 15 identified a response to that e-mail  
 16 from CBFM.  
 17 MR. FRIEDMAN: Can you read the  
 18 rest of the sentence, Jim?  
 19 MR. BONNER: Sure. I can read  
 20 the whole thing I guess. I have not  
 21 identified a response to that e-mail  
 22 from CBFM nor from the rest of the  
 23 defendant's organization.  
 24 MR. FRIEDMAN: By the word  
 25 defendant, you understand he's

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1 WALTERS  
 2 referring to Nat West?  
 3 MR. BONNER: Correct.  
 4 MR. FRIEDMAN: Okay.  
 5 Q. Look at Exhibit 42. Doesn't  
 6 that contain multiple responses to Mr.  
 7 Connors' August 26, 2003 e-mail?  
 8 A. My reading of them is there are  
 9 nine responses.  
 10 MR. FRIEDMAN: Let's take a  
 11 short break and then we will finish  
 12 up.  
 13 THE VIDEOGRAPHER: We are now  
 14 off the record. The time is 5:52  
 15 p.m., June 8, 2011.  
 16 (Recess taken.)  
 17 THE VIDEOGRAPHER: This is tape  
 18 seven of the deposition of Mr. Gary  
 19 Walters. We are now back on the  
 20 record. The time is 6:01 p.m., June  
 21 8, 2011.  
 22 Q. Mr. Walters, did you speak with  
 23 plaintiff's counsel about your testimony  
 24 during that break, yes or no?  
 25 A. Yes.

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1 WALTERS  
 2 Q. Look at paragraph 171 of your  
 3 report. Mr. Walters, did you speak with  
 4 plaintiff's counsel about your testimony  
 5 during that break, yes or no?  
 6 A. Yes.  
 7 Q. Look at paragraph 171 of your  
 8 report. What's your basis for stating there  
 9 that Nat West had clear suspicion of money  
 10 laundering activity in regard to Interpal's  
 11 account? Let me put the question again.  
 12 Look at paragraph 171 of your rebuttal  
 13 report. What's your basis for stating that  
 14 there is in your view a clear suspicion of  
 15 money laundering activity in Interpal's  
 16 accounts?  
 17 A. Because of all the red flags  
 18 that appear and that raises -- each one  
 19 raises separate suspicion.  
 20 Q. In your opinion, did Nat West  
 21 have a suspicion of money laundering?  
 22 A. Yes.  
 23 Q. Have you seen any evidence that  
 24 Nat West had a suspicion of money laundering?  
 25 A. In that it is money laundering

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1 WALTERS  
 2 with a -- money laundering in the broader  
 3 term.  
 4 Q. Meaning what?  
 5 A. Suspicious activity.  
 6 Q. Nat West disclosed suspicions  
 7 of involvement in terror financing, correct?  
 8 A. Yes.  
 9 Q. Have you seen any internal or  
 10 external communications in which Nat West  
 11 stated that it suspected Interpal of engaging  
 12 in money laundering?  
 13 A. Not that I can recall.  
 14 Q. Look at paragraph 174 of your  
 15 second report. Read that to yourself. Is it  
 16 your opinion that Nat West should not have  
 17 closed Interpal's U.S. dollar accounts?  
 18 A. I think they should have  
 19 engaged in more communication when they were  
 20 considering doing that.  
 21 Q. Do you believe that Nat West  
 22 should not have closed Interpal's U.S. dollar  
 23 account?  
 24 A. I believe they should have  
 25 engaged in far more communication before

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1 WALTERS  
 2 doing so.  
 3 Q. We can do this all day and my  
 4 question is do you believe they should not  
 5 have closed the accounts?  
 6 A. I believe that they should have  
 7 communicated far better with law enforcement  
 8 before they chose to do that.  
 9 Q. But do you believe they should  
 10 have closed the accounts?  
 11 A. I believe they should have  
 12 communicated before doing so.  
 13 Q. Do you think that Nat West  
 14 acted inconsistent with your perception of  
 15 banking practice when it closed the accounts?  
 16 A. When it closed the --  
 17 Q. Accounts, the U.S. dollar  
 18 accounts?  
 19 A. I think it was -- I do think it  
 20 was unusual to close them in the way that  
 21 they closed them.  
 22 Q. Do you think it was unusual to  
 23 close them full stop regardless of whether  
 24 they communicated about that fact with law  
 25 enforcement?

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1 WALTERS  
 2 A. Closing accounts is something  
 3 that banks do on a regular basis.  
 4 Q. Here your understanding is that  
 5 Nat West closed the accounts to avoid  
 6 inadvertently having a violation of the OFAC  
 7 regulations, correct?  
 8 A. The OFAC designation was  
 9 clearly causing difficulty and issue as I  
 10 found documented in the communication that I  
 11 reviewed.  
 12 Q. Is it your understanding that  
 13 the purpose of an OFAC designation is to  
 14 create opportunities for freezing funds?  
 15 A. An OFAC designation is to  
 16 inform people of the belief that these are  
 17 engaged in terrorism and it would involve  
 18 restricting movement of funds and removing  
 19 the money from terrorism.  
 20 Q. The purpose of an OFAC  
 21 designation is to prevent the movement of  
 22 funds from occurring, not to create  
 23 opportunities for freezing those funds if the  
 24 movements do occur, correct?  
 25 A. Well, the OFAC listing is part

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1 WALTERS  
 2 of the overall anti-terrorism strategy.  
 3 Q. OFAC wishes by its regulations  
 4 to your understanding to prevent movements of  
 5 funds from occurring involving designated  
 6 entities when those movements are within the  
 7 jurisdiction of the OFAC regulations,  
 8 correct?  
 9 A. I believe that's a reasonable  
 10 summary of my understanding.  
 11 Q. A reasonable summary of what?  
 12 A. My understanding of it.  
 13 Q. Look at paragraph 190 of your  
 14 report. You write here among other things  
 15 that Nat West closed the dollar accounts  
 16 quote in order to overcome in internal quotes  
 17 potential issues with the U.S., correct?  
 18 A. That was my understanding of  
 19 it, yes.  
 20 Q. Another way of putting it is  
 21 that Nat West did this to avoid violating the  
 22 OFAC regulations, correct?  
 23 A. The OFAC listing was causing  
 24 Nat West difficulties in a number of  
 25 different ways. By taking the OFAC issue out

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1 WALTERS  
 2 without a payment filtering system. That's in  
 3 May 2004, quite some time after they  
 4 reassured that the group intends to monitor.  
 5 Q. Thereafter Mr. Cole did a  
 6 review, correct?  
 7 A. Mr. Cole did some inquiries,  
 8 but the group risk handbook of Nat West has  
 9 got in it a list of -- their own policy is  
 10 that, for instance, account activity for the  
 11 previous two years would be reviewed and I  
 12 think that kind of review would have been  
 13 beneficial to the decision making and he  
 14 suggests the semi-annual review so when they  
 15 couldn't comply with their own policy which  
 16 was linked to the OFAC listing and difficult  
 17 it is really to their client if the money  
 18 wasn't moved, they sought to remove that  
 19 difficulty which will be not standard  
 20 operation of the process that they -- it's  
 21 manipulating the process they documented they  
 22 should be doing.  
 23 Q. Did you read the handbook to  
 24 which you just referred?  
 25 A. I did.

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1 WALTERS  
 2 Q. The whole thing?  
 3 A. I did.  
 4 Q. You believe you understood it?  
 5 A. It was divided up in a way that  
 6 made some of it quite difficult because it  
 7 appears to have some bits repeated. There  
 8 were bits where different bits were put in at  
 9 different dates, but I feel I understood it  
 10 and I quote it in my report.  
 11 Q. Look at paragraph 221 of your  
 12 report.  
 13 A. Yes.  
 14 Q. What's your basis for stating  
 15 that Nat West relied on the BBC report?  
 16 A. I would need to review the  
 17 source document.  
 18 Q. Let me show you what's been  
 19 marked as Exhibit 43 which bears the Nat West  
 20 production number 12942. Have you seen that  
 21 before?  
 22 A. Yes, I believe I have.  
 23 Q. That's a letter from the  
 24 Charity Commission to Nat West, actually to  
 25 Royal Bank of Scotland, Nat West's parent,

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1 WALTERS  
 2 informing the bank that the Charity  
 3 Commission's 2003 investigation had ended,  
 4 correct?  
 5 A. Yes.  
 6 Q. It informs Nat West through its  
 7 parent Royal Bank of Scotland that the  
 8 Charity Commission had unfrozen Interpal's  
 9 accounts, correct?  
 10 A. Yes.  
 11 Q. It informed the bank that the  
 12 trustees of Interpal were now free to operate  
 13 the bank's accounts with, I think it should  
 14 be without, but it says with, any further  
 15 recourse to the commission, correct?  
 16 A. Yes.  
 17 Q. It reports to the bank where it  
 18 can find the commission's findings on the  
 19 commission's website, correct?  
 20 A. Yes.  
 21 Q. It thanks Mr. Burfoot of the  
 22 bank and his colleagues for their assistance  
 23 in dealing with the Interpal investigation,  
 24 correct?  
 25 A. Yes.

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1 WALTERS  
 2 MR. FRIEDMAN: I have nothing  
 3 further at this time. As I said  
 4 before, we will be requesting some  
 5 documents.  
 6 MR. BONNER: I just have a few  
 7 questions for Mr. Walters. I think  
 8 probably the best thing to do is to  
 9 keep looking straight ahead even  
 10 though I'm speaking to you.  
 11 EXAMINATION BY  
 12 MR. BONNER:  
 13 Q. You recall that during Mr.  
 14 Friedman's examination, Mr. Walters, there  
 15 was some discussion of the methodology that  
 16 you employed in reaching the conclusions that  
 17 you express in your reports?  
 18 A. Yes.  
 19 Q. Did you employ a consistent  
 20 methodology in reaching those conclusions?  
 21 A. Yes, I did.  
 22 Q. Could you just tell me in  
 23 general terms what the methodology was that  
 24 you employed in reaching the conclusions  
 25 expressed in your report?

**EXHIBIT 146 to Declaration of Joel Israel**


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**IT advisory** – Evaluate client systems and determine efficiency and conformity with data protection rules and regulations.

**Money Laundering** – examine cross border financial transactions and determine if they meet regulatory requirements. Perform due diligence investigations and customer review.

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**EXHIBIT 147 to Declaration of Joel Israel**

Page 1

1 UNITED STATES DISTRICT COURT  
 2 EASTERN DISTRICT OF NEW YORK  
 3 -----x  
 4 MOSES STRAUSS, et al.,  
 5 Plaintiffs,  
 6 -against-  
 7 CREDIT LYONNAIS, S.A.,  
 8 Defendants.  
 9 -----x  
 10 BERNICE WOLF, et al.,  
 11 Plaintiffs,  
 12 -against-  
 13 CREDIT LYONNAIS, S.A.,  
 14 Defendants.  
 15 -----x  
 16 One Liberty Plaza  
 17 New York, New York  
 18 December 2, 2010  
 19 9:45 a.m.  
 20 Videotaped Deposition of Expert  
 21 Witness, EVAN KOHLMANN, before Shari Cohen,  
 22 a Notary Public of the State of New York.  
 23 ELLEN GRAUER COURT REPORTING CO. LLC  
 24 126 East 56th Street, Fifth Floor  
 25 New York, New York 10022  
 212-750-6434  
 REF: 95216

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Page 4

1 ----- I N D E X -----  
 2 WITNESS EXAMINATION BY PAGE  
 3 EVAN KOHLMAN MR. LUFT 7  
 4  
 5  
 6 ----- DOCUMENT REQUESTS -----  
 7 PAGE 20 Engagement Agreement  
 8 34 Engagement Agreement  
 9 58 Copy of database  
 10  
 11  
 12 ----- E X H I B I T S -----  
 13 KOHLMAN DESCRIPTION FOR I.D.  
 14 Exhibit 1 Invoice 14  
 15 Exhibit 2 Invoice 14  
 16 Exhibit 3 Expert Report 55  
 17 Exhibit 4 Letter 69  
 18 Exhibit 5 Transcript 149  
 19 Exhibit 6 Article 231  
 20 Exhibit 7 Document 253  
 21 Exhibit 8 Order 264  
 22 Exhibit 9 Transcript 265  
 23 Exhibit 10 Transcript 290  
 24  
 25 (EXHIBITS TO BE PRODUCED)



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1 KOHLMANN  
2 A. I hope they are, yes.  
3 Q. I hope so too. I have been  
4 referring to 15 attacks and in fact 18 are  
5 listed in your report, correct?  
6 A. Let's see, 18.  
7 Q. The reason I've been referring  
8 to 15 is the first three attacks mentioned,  
9 March 28, 2001 attack, the August 9, 2001  
10 attack and the December 1, 2001 attack, is it  
11 your understanding that those are no longer  
12 at issue in this litigation?  
13 MR. GLATTER: Objection to  
14 form.  
15 A. I have no idea.  
16 Q. I'm only interested in the ones  
17 starting on March 27, 2002 until September  
18 24, 2002 which I'll represent to you are the  
19 attacks that are at issue currently in this  
20 litigation?  
21 MR. GLATTER: Objection to  
22 form.  
23 A. Okay.  
24 Q. It's September 24, 2004 was the  
25 last attack.

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1 KOHLMANN  
2 A. Just to clarify, March 27, 2002  
3 until September 24, 2004?  
4 Q. Correct, those are the 15  
5 attacks I'm referring to. Mr. Kohlmann, yes  
6 or no, are you offering an opinion that the  
7 March 27, 2002 Park Hotel bombing in Natanya  
8 was an attack perpetrated by Hamas?  
9 MR. GLATTER: Objection to  
10 form. You can answer.  
11 A. I'm offering an opinion that  
12 it's more likely than not based on the  
13 evidence proffered by Hamas that Hamas played  
14 a culpable role in that attack.  
15 Q. Are you offering an opinion  
16 that Hamas perpetrated that attack?  
17 MR. GLATTER: Objection to  
18 form.  
19 A. Again, I would give you the  
20 same answer which is that my opinion would be  
21 that it was more likely than not that Hamas  
22 -- that there is evidence that Hamas carried  
23 out that attack.  
24 Q. So I'm clear I'm not asking you  
25 if you believe that there's evidence of it,

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1 KOHLMANN  
2 I'm asking you if you can just give me a yes  
3 or no answer if you are offering an opinion  
4 that the March 27, 2002 Park Hotel bombing in  
5 Natanya was an attack perpetrated by Hamas?  
6 MR. GLATTER: Objection to  
7 form.  
8 A. Unfortunately it's not a yes or  
9 no answer. More likely than not is the  
10 answer. Not that just there is evidence, but  
11 the evidence indicates more likely than not  
12 that Hamas was culpable in some way for that  
13 attack.  
14 Q. When you say the evidence,  
15 that's not all the evidence that exists, it's  
16 just the evidence that you found on Hamas  
17 websites on the internet, correct?  
18 A. Hamas websites and other on  
19 line Hamas materials, correct, yes.  
20 Q. Again, given that you only  
21 looked at -- I understand you only looked at  
22 Hamas materials on the website, what I'm  
23 asking you is a broader question. Are you  
24 offering an opinion that the March 27, 2002  
25 Park Hotel bombing in Natanya was an attack

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1 KOHLMANN  
2 perpetrated by Hamas, yes or no, is that an  
3 opinion you are offering to the court?  
4 MR. GLATTER: Objection to  
5 form.  
6 A. The response to that question  
7 is once again the same which is based upon  
8 the evidence reviewed in my analysis, it's  
9 more likely than not that the attack in some  
10 way -- Hamas was in some way more than likely  
11 or not more than likely, excuse me, more  
12 likely than not involved or culpable in this  
13 attack.  
14 Q. Again, I'm not asking you based  
15 on the evidence you reviewed which admittedly  
16 is not a complete set, correct?  
17 A. Correct.  
18 Q. I'm not asking you based on the  
19 evidence you reviewed what's your opinion of  
20 that evidence, I'm asking if you are offering  
21 an opinion to this court that that attack was  
22 perpetrated by Hamas?  
23 MR. GLATTER: Objection to  
24 form, object to the extent the  
25 question has been asked and answered



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1 KOHLMANN  
2 and object to the extent that the  
3 question is beyond the scope of Mr.  
4 Kohlmann's expert report. You may  
5 answer.  
6 MR. LUFT: I'm trying to  
7 determine the scope. I'm asking if  
8 he's offering this opinion.  
9 MR. GLATTER: My objection  
10 stands. You may answer.  
11 A. Unfortunately my answer is  
12 going to be the same which is that I was not  
13 asked to conduct a wide ranging analysis of  
14 all sources, but based upon the sources that  
15 I specifically was asked to look at, the  
16 evidence that I gathered I believe indicates  
17 that it's more likely than not that Hamas was  
18 culpable in some way for the 15 attacks that  
19 are listed or at least the 15 attacks that  
20 you are concerned with here.  
21 Q. So am I correct that you are  
22 not opining that Hamas was responsible for  
23 the March 27, 2002 Park Hotel bombing attack  
24 in Natanya?  
25 MR. GLATTER: Objection to

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1 KOHLMANN  
2 form, misstates testimony. You may  
3 answer.  
4 A. I don't believe that accurately  
5 states what I just said. I will repeat  
6 again. My conclusion on this is that the  
7 evidence that I reviewed for this analysis  
8 that being Hamas' on line presence indicates  
9 that more likely than not Hamas is culpable  
10 in some way for the 15 attacks that are  
11 listed here.  
12 Q. Mr. Kohlmann, I don't want to  
13 belabor this, but I understand what you want  
14 to offer as your opinion and what it is.  
15 What I'm asking is I have another question on  
16 whether you are offering this other opinion  
17 and that's what I'm asking you to tell me yes  
18 or no if you are offering it or not and so  
19 that's what I want you to tell me either yes  
20 you are offering the opinion or no, you are  
21 not offering the opinion that Hamas  
22 perpetrated the March 27, 2002 Park Hotel  
23 bombing in Natanya?  
24 MR. GLATTER: Objection to  
25 form, vague. You can answer.

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1 KOHLMANN  
2 A. Again, with regard to the March  
3 27, 2002 Park Hotel bombing what you are  
4 suggesting is that I'm not saying they are --  
5 I'm saying they were not culpable or saying  
6 were culpable. I'm saying in this case the  
7 evidence that I reviewed indicates that more  
8 likely than not they were culpable based upon  
9 the evidence in this review. I'm not saying  
10 based upon all evidence out there, I'm saying  
11 based on the evidence in my reviews.  
12 Q. I understand that and what I'm  
13 saying is you are not opining to this court  
14 that the March 27, 2002 Park Hotel bombing in  
15 Natanya was perpetrated by Hamas with no more  
16 qualifications, just that's not an opinion  
17 you are offering, correct?  
18 MR. GLATTER: Objection to  
19 form, asked and answered, but you can  
20 answer.  
21 A. I am answering that in as much  
22 that I'm answering that the evidence that I  
23 reviewed indicates that they more likely than  
24 not were culpable in some way for these  
25 attacks. It's not a yes or no. There's no

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1 KOHLMANN  
2 yes or no because it's half yes, half no.  
3 Q. I believe this is a simple yes  
4 or no question of whether this is an opinion  
5 you are offering so if what I'm saying to you  
6 is not an opinion you are offering, you will  
7 tell me no, I'm not offering that opinion and  
8 if it is an opinion you are offering, you  
9 will tell me yes I am offering that opinion  
10 regardless of what any other opinions you may  
11 be offering, that's what I'm trying to get at  
12 so I'll ask one more time. Are you offering  
13 an opinion that the March 27, 2002 Park Hotel  
14 bombing in Natanya was an attack perpetrated  
15 by Hamas?  
16 MR. GLATTER: Objection to  
17 form. May I clarify my objection?  
18 MR. LUFT: No.  
19 MR. GLATTER: Vague.  
20 A. I cannot answer this any other  
21 way than I've already answered it in as much  
22 that the evidence that I reviewed indicates  
23 that more likely than not Hamas was culpable  
24 in some way for these operations. Beyond  
25 that I'm not offering any assessment as to

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1 KOHLMANN  
2 agencies at the U.S. government in terms of  
3 investigating Hamas financing, Hamas  
4 recruitment. I have gone and listened to  
5 speeches by individuals who have been accused  
6 of Hamas financing, Hamas fundraising and  
7 Hamas propagandizing. I have -- what else  
8 would qualify as field work. Generally in  
9 that vein.  
10 Q. Anything else?  
11 A. That's all I can recall at the  
12 moment.  
13 Q. Mr. Bakri is not a member of  
14 Hamas though, correct?  
15 A. Not as far as I know, no.  
16 Q. The speeches that you heard,  
17 where did you hear them?  
18 A. They were given in the United  
19 States, United Kingdom, elsewhere. Primarily  
20 the U.S. and the U.K.  
21 Q. Any in -- you told me you have  
22 never been to Israel?  
23 A. No, I have never been to Israel  
24 and the occupied territories.  
25 Q. So none of them were there?

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1 KOHLMANN  
2 A. No.  
3 Q. How about Syria?  
4 A. I don't think I'm allowed to go  
5 to Syria.  
6 MR. GLATTER: I think you mean  
7 Saudi Arabia.  
8 MR. LUFT: I'm pretty sure I  
9 meant Syria.  
10 MR. GLATTER: Okay.  
11 MR. LUFT: I think Mr. Kohlmann  
12 knows why I would ask.  
13 A. I have not been to Syria, no.  
14 Q. Lebanon?  
15 A. No, not to Lebanon, no.  
16 Q. Egypt?  
17 A. Not to Egypt, no.  
18 Q. Who in the U.S. government have  
19 you worked with with regard to investigating  
20 Hamas recruitment?  
21 A. I have worked with the United  
22 States Treasury Department, I've worked with  
23 the U.S. Justice Department, I've worked with  
24 the FBI and I've worked with the National  
25 Security Counsel.

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1 KOHLMANN  
2 Q. When you say you have worked  
3 with them, what have you done for them?  
4 A. I don't believe I can discuss  
5 that. I don't believe based upon the fact  
6 the work is confidential I don't believe I  
7 can discuss that.  
8 Q. Do you have --  
9 A. I can give you a general  
10 description.  
11 Q. Why don't we start with that?  
12 A. I have assisted them in  
13 identifying financing networks. I have  
14 assisted them with the identification of  
15 websites. I have assisted them with the  
16 identification of propaganda videos. I think  
17 that's about as specific as I can get.  
18 Q. The propaganda videos were on  
19 the internet?  
20 A. No, the propaganda videos,  
21 well, they were once on the internet. They  
22 were propaganda videos that were created for  
23 the distribution on the internet.  
24 Q. I don't want to impinge our  
25 country's security in any way so I'll try to

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1 KOHLMANN  
2 ask these carefully. Other than helping with  
3 the identification of financing networks,  
4 websites and propaganda videos, is there  
5 anything else?  
6 A. That's the lion share of what I  
7 have done.  
8 Q. Have you ever been a member of  
9 law enforcement?  
10 A. No.  
11 Q. Have you ever been attended a  
12 police academy?  
13 A. No.  
14 Q. The FBI academy?  
15 A. I have attended training  
16 courses at the FBI academy, however, I have  
17 not graduated from any course of study at the  
18 FBI academy.  
19 Q. Have you ever trained to be an  
20 intelligence agent for a government  
21 intelligence agency?  
22 A. No.  
23 Q. Have you ever been part of the  
24 military?  
25 A. No.

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1 KOHLMANN  
 2 A. Again, I believe that because  
 3 of my experience in studying Hamas propaganda  
 4 and their claims of responsibility from the  
 5 web that are issued through their internet  
 6 website, my experience is that a single  
 7 claim, a single credible claim alone is  
 8 enough to believe that it's more likely than  
 9 not that Hamas was engaged in some level of  
 10 culpability in a particular attack, however,  
 11 the more times they say that from the more  
 12 branches of the organization or the more  
 13 individual leaders, that then tends to go up  
 14 from there. As regards to did I note that in  
 15 my report, yes. In each attack I  
 16 specifically identified whether or not a  
 17 communica was posted on either the  
 18 Palestinian information center or a website  
 19 operated by the Izzeden al-Qassam Brigades  
 20 and I was I believe it's pretty specific for  
 21 each attack.  
 22 Q. I'm trying to understand you  
 23 say it goes up from there, either Hamas was  
 24 culpable or they were not culpable, right,  
 25 there's no going up so I'm asking in terms of

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1 KOHLMANN  
 2 doing your methodology in assessing the  
 3 reliability of that information, did it  
 4 matter to you the fact that there was not  
 5 these in certain cases additional posts on  
 6 other websites, did you take that into  
 7 consideration when doing your analysis?  
 8 MR. GLATTER: Objection to  
 9 form.  
 10 A. Again, I did take it into  
 11 consideration, but my sense is that a single  
 12 claim of responsibility on a credible Hamas  
 13 site was sufficient detail. That by default  
 14 means that it's more likely than not that  
 15 Hamas in some way was culpable for a  
 16 particular attack. What I'm saying is that  
 17 the more times they claim responsibility, the  
 18 more places that those claims of  
 19 responsibility come out on line in authorized  
 20 authentic venues, that means that it goes up  
 21 from there. It means it becomes increasingly  
 22 likely that they were indeed culpable in some  
 23 way for a given attack, but what I'm saying,  
 24 yes, I did take into consideration because  
 25 obviously identified in my report when

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1 KOHLMANN  
 2 communicas were either issued by the  
 3 Palestinian information center i.e. the  
 4 website of the political wing verses the  
 5 websites run by the military wing, the  
 6 Izzeden al-Qassam Brigades.  
 7 Q. What I can't tell from your  
 8 report is where in your methodology you  
 9 discounted a claim of responsibility where  
 10 there were not multiple claims?  
 11 MR. GLATTER: Objection to  
 12 form.  
 13 A. I would have discounted  
 14 responsibility had there been no claims. In  
 15 this case there were claims of responsibility  
 16 for all 15 and they were claims of  
 17 responsibility which I deemed to have been  
 18 posted on credible authentic Hamas websites,  
 19 either the political, the military wing or  
 20 both so what I'm saying is is that at a  
 21 minimum for those 15 attacks at a minimum  
 22 there was at least one credible claim of  
 23 responsibility which would indicate to us  
 24 that more likely than not Hamas had in some  
 25 way been culpable for these attacks.

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1 KOHLMANN  
 2 Q. Let me understand, you only  
 3 looked at materials Hamas posted on the web?  
 4 A. Correct.  
 5 Q. And you're saying that if Hamas  
 6 had never claimed responsibility, then you  
 7 would have discounted that in your analysis  
 8 that Hamas did it, effectively if they never  
 9 said they did it you would have discounted  
 10 the possibility that they did it?  
 11 MR. GLATTER: Objection,  
 12 misstates the testimony.  
 13 A. If Hamas never had issued a  
 14 communica, credible communica via one of its  
 15 on line information sources, it never issued  
 16 a video recording and it never cited the  
 17 attack in the Glory Record, it had never  
 18 talked about the attack in one of its  
 19 magazines, it never produced any evidence  
 20 that it even knew the attacker, then yes, the  
 21 attack would not have shown up in this list.  
 22 Q. If Hamas did any of those  
 23 things, then they would qualify under your  
 24 list of providing more likely than not that  
 25 Hamas was culpable in the attack?

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1 KOHLMANN  
2 that were coming from the headline.  
3 Q. Advanced criminal law course,  
4 what was that?  
5 A. That was a lot of different  
6 things. That was more procedural than  
7 substantive.  
8 Q. For your cyber crime seminar I  
9 know you mentioned the paper that you wrote.  
10 What was being taught in the class, was the  
11 focus of that terrorism and counter  
12 terrorism?  
13 A. The focus of that was largely  
14 to do with terrorism and counter terrorism.  
15 The class was taught by a former assistant  
16 U.S. attorney and was taught -- individual  
17 classes were taught by FBI agents and others.  
18 A large part of it had to do with terrorism.  
19 Q. I assume Afghanistan and  
20 Islamism related to terrorism, is that fair?  
21 MR. GLATTER: Asked and  
22 answered.  
23 MR. LUFT: I didn't ask that  
24 one.  
25 MR. GLATTER: I think you did,

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1 KOHLMANN  
2 but you can answer again.  
3 MR. LUFT: Actually I didn't.  
4 A. I don't know if it's related to  
5 terrorism per se, but it's relating to my  
6 course of study, my understanding of  
7 terrorism.  
8 Q. But the topic was not actually  
9 terrorism?  
10 A. The topic was modern  
11 contemporary Afghan history and the role of  
12 Islamism which obviously is directly relevant  
13 to terrorism, but I don't think we were  
14 studying it from the perspective of terrorism  
15 or counter terrorism, we were studying the  
16 substantive aspects of this, but obviously  
17 it's relating to terrorism.  
18 Q. How about free speech, was the  
19 focus of that terrorism and counter  
20 terrorism?  
21 A. I can't recall what I did in  
22 free speech. I can't recall what work we did  
23 in free speech.  
24 Q. Trial advocacy?  
25 A. I believe trial advocacy was

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1 KOHLMANN  
2 straight trail ad.  
3 Q. First Amendment?  
4 A. I don't recall.  
5 Q. What was your independent  
6 study?  
7 A. I don't recall.  
8 Q. Fair to say --  
9 A. I do know what my independent  
10 study was. My independent study was doing  
11 work on behalf of the Investigative Project.  
12 Q. Fair to say that the majority  
13 of the courses you took in law school the  
14 focus was not on terrorism and counter  
15 terrorism?  
16 MR. GLATTER: Objection to  
17 form, vague.  
18 A. I would say that there were at  
19 least five to six classes where terrorism was  
20 a major focus of study, at least three of  
21 which where terrorism was the dominant  
22 subject of study. I don't know if that's the  
23 majority, but that's more than two.  
24 MR. LUFT: Okay, why don't we  
25 wrap up for tonight.

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1 KOHLMANN  
2 MR. GLATTER: We'll see you  
3 tomorrow.  
4 THE VIDEOGRAPHER: This  
5 concludes the deposition of Evan  
6 Kohlmann for tonight December 2,  
7 2010. Time is 6:22 p.m. We are  
8 reconvening tomorrow at 9:30.  
9 (Time noted: 6:22 p.m.)  
10  
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1 UNITED STATES DISTRICT COURT  
 2 EASTERN DISTRICT OF NEW YORK  
 3 -----x  
 4 MOSES STRAUSS, et al.,  
 5 Plaintiffs,  
 6 -against-  
 7 CREDIT LYONNAIS, S.A.,  
 8 Defendants.  
 9 -----x  
 10 BERNICE WOLF, et al.,  
 11 Plaintiffs,  
 12 -against-  
 13 CREDIT LYONNAIS, S.A.,  
 14 Defendants.  
 15 -----x  
 16 One Liberty Plaza  
 17 New York, New York  
 18 December 3, 2010  
 19 9:45 a.m.  
 20 Continued Videotaped Deposition  
 21 of Expert Witness, EVAN KOHLMANN, before  
 22 Shari Cohen, a Notary Public of the State of  
 23 New York.  
 24 ELLEN GRAUER COURT REPORTING CO. LLC  
 25 126 East 56th Street, Fifth Floor  
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 20  
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 22  
 23  
 24  
 25



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1 KOHLMANN  
2 purchased ISYS and I was to export my own  
3 data files i.e. the data files -- the index  
4 data files on my computer, I don't believe  
5 those would be readable by ISYS on a separate  
6 computer. If you ran ISYS, an indexing  
7 process through my entire database which I  
8 should warn you takes about two weeks you  
9 would eventually get a searchable index,  
10 should be the identical same one that I had.  
11 The process of creating an automated index  
12 like that with software A, is very onerous  
13 and B, takes quite a bit of time and C,  
14 again, is not exportable. It's not like I  
15 could give you my data files. You have to  
16 re-index the whole thing yourself on your own  
17 end.  
18 Q. Mr. Kohlmann, I want to ask you  
19 just again I'm trying to get a sense of how  
20 all this fits together, you said in your  
21 Affidavit that your database consists of raw  
22 data files and that the materials are sorted  
23 chronologically by year and gave examples  
24 from 2008?  
25 A. Yes.

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1 KOHLMANN  
2 Q. When did you start sorting your  
3 materials chronologically by year?  
4 A. As soon as I had more than one  
5 year worth of materials.  
6 Q. As I have seen in the sub  
7 database I see there's a folder from '98 to  
8 2006 I believe, but I don't see any files  
9 chronologically by year within that time  
10 period?  
11 A. I'll have to double check upon  
12 that, but the reason why there's one folder  
13 for all those years is because of the fact  
14 that I only start separating them out year by  
15 year if there's so much data that it starts  
16 over loading individual folders. If I saved  
17 so many files by hand individually, if you  
18 save over 2,000 files by hand individually in  
19 one folder, what happens is that Windows can  
20 no longer read the folder and any attempt to  
21 browse the folder will crash your computer.  
22 The idea is as soon as I reach the point I  
23 had more than 2,000 hand saved files in one  
24 folder which is now in some cases every month  
25 with particular groups I would have to then

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1 KOHLMANN  
2 do that. Luckily for the most part between  
3 those years aside from the archived copies,  
4 the pulled copies of the websites that we  
5 had, the materials were specifically related  
6 to specific tasks that we were engaged in  
7 with regards to these websites so it was a  
8 significant amount of material, but it was  
9 not more than 2,000 hand saved files.  
10 Q. When you say that they were --  
11 those materials were related to specific  
12 tasks?  
13 A. For instance, we were engaged  
14 in studying Hamas financing so if Hamas would  
15 come out and Hamas did do this, if Hamas came  
16 out with something on their website talking  
17 about would you like to contribute, here's  
18 instruction how you can contribute, those  
19 kind of files we would save individually.  
20 Q. Not a general collection with  
21 regard to Hamas during that time period? You  
22 were not trying to capture everything Hamas  
23 was putting on the web?  
24 A. The idea of addressing that  
25 need was to try to archive as much as

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1 KOHLMANN  
2 possible the complete copies of the sites,  
3 but we only saved targeted files when we  
4 believed that individual files are  
5 specifically relevant and necessary to save  
6 individually for particular things that we're  
7 working on. Certain groups we saved more  
8 things by hand, however, that's often because  
9 of the fact that those groups don't have the  
10 fixed websites so in other words there's no  
11 way of creating an automated archive of the  
12 website in question. Hamas depending how you  
13 appreciate it or not Hamas has a fixed  
14 website which means that you could go ahead  
15 and download everything off their website in  
16 one fell swoop whereas with a lot of these  
17 other groups they were disseminating  
18 communications via message forums, individually,  
19 they would disappear one day, they would come  
20 back another day, there was no way of  
21 grabbing everything all at once.  
22 Q. Mr. Kohlmann, for the period of  
23 1998 to 2006 in that folder, those materials  
24 are not sorted chronologically other than  
25 they fall within that six year, eight year

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1 KOHLMANN  
2 time frame, correct?  
3 MR. GLATTER: Folder on the sub  
4 database or the database?  
5 Q. Sub database?  
6 A. I would have to review that to  
7 be certain. I believe there are some  
8 materials in there sorted chronological, but  
9 I would have to go back and look  
10 individually. The other factor to take into  
11 mind is that when you save files in a Windows  
12 or for that matter any file system, the file  
13 system creates records of when the file was  
14 created, last modified, etc., etc. Are you  
15 familiar with what I'm discussing?  
16 Q. Yes.  
17 A. So in some cases what I would  
18 also do is use the actual computer registry  
19 of when I had actually saved files to  
20 determine when they were from.  
21 Q. I apologize I have been telling  
22 you '98 to 2006. I have been told it's --  
23 A. 2005.  
24 Q. 2005, correct. Mr. Kohlmann,  
25 let me ask you this. I note that in your

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1 KOHLMANN  
2 report you mention that in addition to  
3 looking in your own archive there were  
4 multiple instances where you used a web based  
5 archive to find information that I assume was  
6 not included in your database?  
7 A. Yeah, starting in 1998 we have  
8 regularly used the internet archive and  
9 material stored on the archive i.e.  
10 archive.org, www.archive.org to supplement  
11 what we have in our own database because of  
12 the fact like I said we simply have not had  
13 the good fortune to save every single last  
14 file so we've used -- it's pretty consistent  
15 use of the internet archive to supplement  
16 also because of the fact that in many cases  
17 it's easier to reproduce materials from the  
18 internet archive than it is from our database  
19 simply because the internet archive very  
20 clearly is time date stamped, it's publicly  
21 available, it can be exported and sent to  
22 other people and it could be independently  
23 verified so for our purposes in a number of  
24 ways in which we were using this data using  
25 copies distributed by the internet archive

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1 KOHLMANN  
2 provided us benefit.  
3 Q. Mr. Kohlmann, if I want to look  
4 at the sub database, how can I determine what  
5 materials on the sub database came from your  
6 proprietary database and which materials you  
7 gathered from the web archive for purposes of  
8 this litigation?  
9 A. Everything in our database is  
10 part of our database regardless of whether it  
11 comes from the archive or it comes directly  
12 from the Hamas site. It's my belief upon  
13 studying the way the internet archive works  
14 their copies of Hamas websites are equally as  
15 authoritative and accurate and credible as  
16 the ones that we have saved directly so I  
17 personally don't necessarily distinguish  
18 between the credibility of al-Qassam.ps as we  
19 downloaded it verses al-Qassam.ps which is  
20 archived on the archive, however, if you were  
21 interested in determining whether or not an  
22 individual file has been saved from the  
23 internet archive verses has been saved  
24 directly from Palestineinfo, al-Qassam.ps  
25 there is actually a very simple way of

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1 KOHLMANN  
2 determining that.  
3 Q. Great.  
4 A. Which is that files for the  
5 most part that are on the internet archive  
6 are saved in web HTML format. Every single  
7 file which is available for download from the  
8 internet archive which is in HTML format  
9 regardless of whatever site it's in embedded  
10 within the HTML, not visible to the naked  
11 eye, but if you look in the source file at  
12 the top it very clearly states downloaded  
13 from the internet archive along with the  
14 original URL from which it was downloaded.  
15 Q. There is a folder in your sub  
16 database that says appendix and has a whole  
17 bunch of PDF's in it. Do you know what I'm  
18 referring to?  
19 A. That's relating to this case.  
20 Q. That's what I want to know.  
21 A. Yeah.  
22 Q. Is that something that existed  
23 in your database prior to working on this  
24 case or is that material that you assembled  
25 for this case?

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1 KOHLMANN  
 2 A. This is an issue of confusion I  
 3 think. I was producing in addition to my  
 4 sub database, I also produced to you a folder  
 5 marked appendix with all of my materials, but  
 6 those materials are relating to this case,  
 7 they are not materials that we necessarily  
 8 downloaded ahead of time into a file marked  
 9 appendix and it happened to coincide, no,  
 10 that's just an issue of confusion.  
 11 Q. To the extent that the  
 12 materials listed in the appendix are not  
 13 materials that I find elsewhere in your sub  
 14 database, is it fair for me to assume that  
 15 they were not materials from your database,  
 16 but materials that you searched on the  
 17 internet archive to get for purposes of this  
 18 litigation?  
 19 MR. GLATTER: Objection to  
 20 form. I think that misstates the  
 21 testimony.  
 22 MR. LUFT: I don't think I  
 23 asked it to him. I don't think he  
 24 said anything. I'm trying to  
 25 understand it, Josh, please.

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1 KOHLMANN  
 2 MR. GLATTER: I understand.  
 3 I'm just preserving the record. You  
 4 can answer the question.  
 5 A. I don't think it's 100 percent  
 6 thing. I don't know what you are doing to  
 7 search for those things in there. It's  
 8 certainly possible that there are materials  
 9 from the internet archive which we obtained  
 10 in relation for this case which we may not  
 11 have had copies of initially on the archive  
 12 site and that's one of the reasons why we  
 13 rely on the internet archive to make sure  
 14 that anything -- we believe our database is  
 15 fairly comprehensive, but there's always the  
 16 possibility it might be missing something so  
 17 that's one of the reasons we rely on the  
 18 internet archive it's an independent  
 19 objective copy of that data and it allows us  
 20 to look through from the position again of  
 21 being ignorant of what's in our database what  
 22 else might be there that we might have  
 23 missed.  
 24 Q. I'm trying to figure out, Mr.  
 25 Kohlmann, as an easy way to do that check

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1 KOHLMANN  
 2 that I want to know which is what's in your  
 3 database verses that you are relying on  
 4 verses what came from the internet archive.  
 5 If I look what's in the appendix and if I  
 6 don't find it in the rest of sub database, is  
 7 it a safe assumption that that means that if  
 8 I can't find it from your sub database is it  
 9 a safe assumption that it came from outside  
 10 your database?  
 11 MR. GLATTER: Objection to  
 12 form.  
 13 A. I don't know because I don't  
 14 know what you are doing to look for those  
 15 files.  
 16 Q. Presuming I'm not in error in  
 17 what I'm doing.  
 18 MR. GLATTER: Objection to  
 19 form.  
 20 A. It's possible. I don't know.  
 21 I don't know. I'd have to see. If you have  
 22 an individual attack, we can try looking and  
 23 seeing whether or not it's in there or  
 24 whether or not the only copy we have is from  
 25 the internet archive, it's possible, but I

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1 KOHLMANN  
 2 think the only thing to say about this is  
 3 that we often use the internet archive to  
 4 supplement our off line copies of these  
 5 websites. It's something we do on a very  
 6 frequent basis, not just with regard to  
 7 Hamas, but with regard to a wide range of  
 8 different groups.  
 9 Q. If something is included in  
 10 your appendix and does not otherwise exist in  
 11 the sub database -- strike that.  
 12 Mr. Kohlmann, when you were  
 13 looking with regard to an individual attack  
 14 for what materials existed, walk me through  
 15 your process in terms of when you looked at  
 16 your database verses when you looked at the  
 17 web archive?  
 18 A. You mean chronologically  
 19 speaking?  
 20 Q. What process did you use when  
 21 you were faced with a specific attack, how  
 22 did you assemble information to determine  
 23 whether you needed to look beyond your own  
 24 database?  
 25 A. We did in every single case.



Page 500

1 KOHLMANN  
 2 Q. Do you recall what number of  
 3 the 15 cases you looked -- you found material  
 4 on the web archive that was not included in  
 5 your database?  
 6 A. I don't know only because we  
 7 did not organize it like that, we simply  
 8 looked for relevant material and gathered it  
 9 all together in folders and in several cases  
 10 I believe even when material was present in  
 11 our database we used copies that were on the  
 12 internet archive simply because of the fact  
 13 it was easier to reproduce them, it was  
 14 easier to present them, it was easier for us  
 15 to then authenticate them to defense counsel.  
 16 Q. Sitting here today you don't  
 17 remember which attacks you had information in  
 18 your database and which ones you looked on  
 19 the web archive for?  
 20 MR. GLATTER: Objection to  
 21 form.  
 22 A. Like I said, our presumption  
 23 initially is there might be some information  
 24 out there which is not in our database, we  
 25 have to presume that there might be something

Page 501

1 KOHLMANN  
 2 not there so immediately we look to current  
 3 iterations of Hamas websites, we looked to  
 4 archived iterations of Hamas websites and  
 5 then we looked to our own database. This is  
 6 particularly applicable to Hamas because  
 7 Hamas has multiple fixed websites which are  
 8 archived by the internet archive so in this  
 9 case we wanted to go directly to the horse's  
 10 mouth so if we had stuff on our database that  
 11 was great, but we often times tried to  
 12 present the form that was available in the  
 13 internet archive so that it was easily  
 14 accessible to defense counsel, it was easily  
 15 authenticated, there was no question about  
 16 where it came from or about what methods we  
 17 used to save it or whether it was preserved  
 18 properly or any of that other material.  
 19 Q. Mr. Kohlmann, in your  
 20 declaration you told us that not every item  
 21 cited in my report is encompassed in my  
 22 database or the sub database. This is  
 23 because many of the materials were at the  
 24 time I completed the Kohlmann report  
 25 available directly on line from either the

Page 502

1 KOHLMANN  
 2 Hamas' current websites or from the internet  
 3 archive site, do you recall that?  
 4 A. Yes, I do.  
 5 MR. GLATTER: You reading from  
 6 the report or declaration?  
 7 MR. LUFT: The declaration.  
 8 MR. GLATTER: I don't think we  
 9 introduced that.  
 10 MR. LUFT: I'm asking to  
 11 refresh his recollection.  
 12 Q. You remember saying that,  
 13 right?  
 14 A. Yes.  
 15 Q. When you say not every item in  
 16 my report is encompassed in my database or my  
 17 sub database, that means that there's certain  
 18 things that you have cited to in your report  
 19 that don't exist in your database which is  
 20 what we've been talking about, right?  
 21 MR. GLATTER: Objection to  
 22 form.  
 23 A. Correct, those materials would  
 24 have been on the internet archive, exactly.  
 25 Q. You say the reason that they

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1 KOHLMANN  
 2 are not included in your database or your sub  
 3 database is because many of the materials  
 4 were available directly on line from either  
 5 Hamas' current internet websites or from the  
 6 internet archive, correct?  
 7 A. Correct.  
 8 Q. What I'm trying to understand  
 9 is for something to be included at the  
 10 database from 2003, you would have needed to  
 11 make a decision in 2003 or some relevant time  
 12 interval shortly thereafter about whether to  
 13 save it or not. You would not know in the  
 14 future something would continue to be on the  
 15 web archive or continue to be or continue  
 16 post on the current version of the website,  
 17 correct?  
 18 MR. GLATTER: Objection to  
 19 form.  
 20 A. This goes back to what I was  
 21 saying before that Hamas is different from  
 22 other groups. Al-Qaeda communicas don't last  
 23 on the internet very long, they get wiped out  
 24 pretty quickly, so you have to save  
 25 individual files. With Hamas, part of what

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1 KOHLMANN  
 2 we understood was that Hamas had a continuing  
 3 presence on the internet and that the Hamas  
 4 websites which were fixed dot com websites  
 5 were being regularly indexed by the internet  
 6 archive. Given the fact that when we started  
 7 doing this back in 2003 we had somewhat  
 8 limited resources as well as limited  
 9 technology, we did as much as possible to  
 10 save what we could, but with the  
 11 understanding that because of the fact that  
 12 all of this stuff is being repeatedly posted  
 13 on each iteration of the Hamas website and  
 14 because there are detailed archive available  
 15 on the internet archive of those stored  
 16 sites, it made sense for us to focus in on  
 17 particular areas of significance if there  
 18 were particular communicas or particular  
 19 operations or something in particular off  
 20 that site that became relevant later  
 21 obviously we would look in our database to  
 22 see whether we had a copy, but it was also in  
 23 the understanding that these materials would  
 24 likely also alternatively be available via  
 25 the internet archive or if not the internet

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1 KOHLMANN  
 2 archive, then from the current iteration of  
 3 the al-Qassam website or the Palestinian  
 4 information center website.  
 5 Q. In 2002 you knew what would be  
 6 available on the al-Qassam website today?  
 7 A. I knew that the archive was  
 8 creating archives of the websites so I knew  
 9 that in 2002 I had a strong degree of  
 10 confidence that in two years if I wanted to  
 11 go back and look what was on  
 12 Kataeb-ezzeldeen.com in large part that  
 13 material would still be available.  
 14 The internet archive does not  
 15 archive every single last file, but neither  
 16 can we, not by hand anyway, so the idea being  
 17 is that we understood that there was a back  
 18 up there where if we needed to go back and  
 19 make sure that there were individual files  
 20 which we may or may not have actually had a  
 21 chance to archive because of the fact that  
 22 al-Qassam.ps and Palestine info are fixed dot  
 23 com websites we had a strong degree of  
 24 confidence that that material would in large  
 25 part be archived on the internet archive and

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1 KOHLMANN  
 2 available for us to use.  
 3 MR. LUFT: Let's take a short  
 4 break.  
 5 THE VIDEOGRAPHER: We are now  
 6 off the record at 1:59 p.m., December  
 7 3, 2010.  
 8 (Recess taken.)  
 9 THE VIDEOGRAPHER: The time is  
 10 2:18 p.m. on December 3, 2010. We're  
 11 are now back on the record. You may  
 12 proceed.  
 13 A. Just to offer a clarification,  
 14 I want to be very clear how the internet  
 15 archive is used in my database. We regularly  
 16 use the internet archive to access websites  
 17 which we may or may not already have copies  
 18 of to save archive material thus my sub  
 19 database regardless of anything to do with  
 20 this matter presently at hand, my sub  
 21 database includes both materials that have  
 22 been downloaded directly from the Hamas  
 23 websites as well as material that we may have  
 24 gotten from the Hamas websites, but via the  
 25 channel of the archive. That may or may not

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1 KOHLMANN  
 2 have any relation to this case. The point is  
 3 we use the internet archive frequently and  
 4 there is no distinction in our database  
 5 between files that are saved from the  
 6 internet archive verses the ones that are  
 7 saved directly from the sites because it's  
 8 our understanding that the copies maintained  
 9 on the internet archive are accurate and  
 10 complete to the extent they proffer  
 11 themselves to be.  
 12 Q. Mr. Kohlmann, do you know if  
 13 any of the materials relating to the 15  
 14 attacks in this case that are in your sub  
 15 database, but not in the file labeled  
 16 appendix came from the web archive?  
 17 A. Repeat the question.  
 18 (Record read.)  
 19 A. It's possible, yeah, but they  
 20 should all be within -- all that material  
 21 should be within the -- you're asking me --  
 22 let me clarify. You are asking me if there  
 23 is material in the appendix which is not in  
 24 my -- repeat the question.  
 25 (Record read.)

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1 KOHLMANN  
 2 A. It's possible, but I'm not  
 3 aware of anything specifically that was used  
 4 in my report that's not in the appendix with  
 5 regard to the 15 attacks, the actual 15  
 6 attacks.  
 7 Q. I'm sorry, I think you are  
 8 missing the question. Let me try to ask it  
 9 again in a way -- you have a file in your sub  
 10 database labeled appendix?  
 11 A. A folder, right.  
 12 Q. That's material that you put  
 13 together for this case?  
 14 A. Right, that's not actually in  
 15 my sub database though, that's only in the  
 16 files that were given to you.  
 17 MR. GLATTER: By sub database  
 18 Mr. Luft is referring to the DVD that  
 19 we produced.  
 20 Q. What you gave me as the sub  
 21 database?  
 22 MR. STEINGARD: The question  
 23 has nothing to do with what's in the  
 24 folder called appendix.  
 25 Q. What I want to know is about

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1 KOHLMANN  
 2 what you would call your sub database meaning  
 3 the material that comes from your database  
 4 exclusive of the folder labeled appendix,  
 5 okay?  
 6 A. Yeah.  
 7 Q. My question is do you know if  
 8 any of the materials in that sub database  
 9 meaning the stuff not including stuff in your  
 10 appendix that relates to the 15 attacks in  
 11 question that you cite in this report came  
 12 from the web archive?  
 13 A. It's possible. I don't know.  
 14 I'd have to look to see. We don't  
 15 distinguish between material that's taken  
 16 from our own off line archives verses the  
 17 internet archive because we don't necessarily  
 18 distinguish -- we don't think that there is  
 19 anything indicating a lack of credibility or  
 20 authenticity because of the internet archive  
 21 so I don't know.  
 22 Q. When you first began work on  
 23 this matter, when you started to look for  
 24 materials with regard to the 15 attacks, did  
 25 you first look at the internet web archive

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1 KOHLMANN  
 2 and the current website or did you first  
 3 search your proprietary database?  
 4 A. We ran searches concurrently.  
 5 We did not do one or the other. It was not  
 6 in a specific order. We ran searches through  
 7 every resource that was available to us and  
 8 we also looked obviously on the current site  
 9 as well.  
 10 Q. It was not a process where  
 11 using one to supplement the other, it was  
 12 rather you did both at the exact same time  
 13 and whatever you got, that was the body of  
 14 information you looked at?  
 15 MR. GLATTER: Objection to  
 16 form.  
 17 A. Yeah, again, we don't  
 18 distinguish between material taken from the  
 19 archive verses material taken from our  
 20 archive. Any material which is from a  
 21 relevant credible authentic Hamas source or  
 22 from an archive, a credible authentic archive  
 23 of that site for our purposes it doesn't make  
 24 a difference. We did do a search in both  
 25 locations, but I don't think there was an

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1 KOHLMANN  
 2 order to it, no.  
 3 Q. In doing your search of your  
 4 proprietary database, what search terms did  
 5 you use to find material with regard to the  
 6 15 attacks?  
 7 A. We ran through a multitude of  
 8 search terms. First of all, we ran through  
 9 the names of the individuals who were deemed  
 10 responsible for the attacks if there were  
 11 names of individuals in Arabic, we searched  
 12 for dates i.e. if something took place on  
 13 September 1, 1999 we searched various dating  
 14 formats of September 1, 1999 to see whether  
 15 or not that popped up.  
 16 We looked -- targeted --  
 17 actually looked into the communica section  
 18 and looked chronologically, they have their  
 19 communica organized chronologically so  
 20 knowing when a particular attack took place  
 21 we looked to see whether or not there was a  
 22 communica posted referring to that.  
 23 We looked to see obviously the  
 24 Glory Record over time as stored both on the  
 25 archive and in our own local database. The

**EXHIBIT 148 to Declaration of Joel Israel**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
MOSES STRAUSS, et al.,

Plaintiffs,

-against-

CRÉDIT LYONNAIS, S.A.

Defendant.  
-----X

Case No. 06-cv-702 (DGT)(MDG)

-----X  
BERNICE WOLF, et al.,

Plaintiffs,

-against-

CRÉDIT LYONNAIS, S.A.

Defendant.  
-----X

Case No. 07-cv-914 (DGT)(MDG)

-----X  
TZVI WEISS, et al.,

Plaintiffs,

-against-

NATIONAL WESTMINSTER BANK PLC,

Defendant.  
-----X

Case No. 05-cv-4622 (DGT)(MDG)

-----X  
NATAN APPLEBAUM, et al.,

Plaintiffs,

-against-

NATIONAL WESTMINSTER BANK PLC,

Defendant.  
-----X

Case No. 07-cv-916 (DGT)(MDG)



1. My name is Evan F. Kohlmann, and I have been retained as a testifying expert by plaintiffs in the above-captioned matters. On September 8, 2009, I issued a written report (the "Kohlmann Report") pursuant to Fed. R. Civ. P. 26(a)(2)(B) setting forth my opinions concerning Hamas's Internet presence and history, and further offering my opinions on whether or not certain materials, in my expert opinion, constitute claims of responsibility by Hamas for specific acts of violence that caused physical injury to Plaintiffs and/or their relatives.

2. I am submitting this declaration in order to explain why I am unable to provide the Defendants with an index of materials contained either in my general database, or several DVDs of materials produced on March 3, 2010, constituting an agreed upon sub-database of materials on Hamas extracted from my general database (the "Sub-Database").

3. I note as an initial matter that the Kohlmann Report identifies all materials that I have considered, reviewed, and relied upon in arriving at my opinions, and cited the specific internet addresses (URLs) that can be accessed. I further note that the Kohlmann Report included an appendix of certain Arabic language materials I cited and relied upon in support of the opinions. The materials in the appendix constitute hard copies of certain materials previously available on-line, which I downloaded and archived in my proprietary database (described further below) but, which, to the best of my knowledge, are no longer accessible either through the website or open-source archiving sites. The Kohlmann Report's appendix identifies which of these materials relate to a particular attack at issue.

4. Following the service of the Kohlmann Report upon Defendants, I was advised that Defendants had requested that I make my entire professional database available for their review. I told Plaintiffs' counsel that because my database contains approximately 2 terabytes of data, its sheer size makes the request to produce it in its entirety extremely difficult. Further, I

relied on only a small portion of the materials contained in the database (and Sub-Database) to generate my opinions in this case. Large portions of the data concern topics irrelevant to this case, and my report transparently identifies which materials I am relying upon in connection with my opinions. Finally, my general database contains a variety of highly confidential materials governed by confidentiality agreements with, among others, the United States Department of Justice and Department of Defense.

5. Thereafter, following what I understand were a series of conversations among counsel for the parties, the parties agreed, as a negotiated compromise, that I would provide the Sub-Database, which I did on March 3, 2010. I agreed to do this, although many of the materials in the Sub-Database are not materials that I have considered, reviewed or relied upon in connection with the Kohlmann Report's opinions. The Sub-Database was packaged on several DVD discs, sorted by year, which were served upon the Defendants.

6. As noted above, the Sub-Database comprises nearly all of the materials on Hamas in my general database, and includes all materials cited in the report that are within my database. Not every item cited in my report is encompassed in my database or the Sub-Database. This is because many of the materials were (at the time I completed the Kohlmann Report) available directly on-line from either Hamas's current Internet websites, or from the Internet Archive site.

7. As explained below, the Sub-Database captures materials in "native format." The Sub-Database reflects my best, good-faith effort, to provide an extraction from my general database that contains nearly all the Hamas materials in my collection, and shows the manner in which I archive such materials

8. Subsequent to the Sub-Database's production, I was advised that Defendants' counsel claimed to have difficulty comprehending the nature of the materials produced and



requested that I provide an index of the Sub-Database. My understanding is that Defendants' counsel is under the impression that I maintain an index of my general database, and can extrapolate from it an index of the materials on the Sub-Database. Alternatively, Defendants' counsel requested that I create an index of the materials contained on the DVDs comprising the Sub-Database.

9. For the reasons set forth below, I am unable to accommodate Defendants' counsel's request. I do not maintain an existing index of my database, and it would be grossly burdensome and an immense hardship for me to generate "from scratch" an index of the materials contained on the DVDs constituting the Sub-Database. Although I will be happy to discuss this further at any scheduled deposition, the explanation set forth below explains the manner in which my database is maintained.

10. My database consists of raw data files – Microsoft Word documents, HTML web pages, JPG/TIF images, MPG/AVI videos, and so forth. Those materials are sorted chronologically by year -- *i.e.*, if I am searching for a file relating to Hamas that was published or I recovered in 2008, I would look in the "ARCHIVE (2008)" subfolder under the main "Hamas" folder. Within that "ARCHIVE (2008)" subfolder, there are other sub-directories relating to specific individuals, events, or websites.

11. Some of the files contained in my database have been recovered and saved individually by hand. Those files are generally assigned names based on an in-house archival methodology: "[Year]-[Month]-[Day].[Source].[Short Summary of Content] – [Thread Number (if exists)] – [Language].[File extension]".<sup>1</sup>

---

<sup>1</sup> By thread number, I refer to the unique numeric identification number given to each registered post on certain Internet discussion forums.



12. For example, an Arabic-language MPEG video of a Hamas training camp saved from the website [www.alqassam.ps](http://www.alqassam.ps) on January 1, 2009 would have the filename: “2009-01-01.alqassam.ps.Hamas training camp video – Arabic.mpg.”

13. Other files in my database have been saved as part of an automated process by web indexing software, particularly the popular software package known as “HTTrack.” On its own website, HTTrack states that it

allows you to download a World Wide Web site from the Internet to a local directory, building recursively all directories, getting HTML, images, and other files from the server to your computer. HTTrack arranges the original site’s relative link-structure. Simply open a page of the ‘mirrored’ website in your browser, and you can browse the site from link to link, as if you were viewing it online.<sup>2</sup>

In order to create an historical record of my archives, as frequently as possible, I document the web-spidering processes by saving the log files that HTTrack automatically creates. I save these log files in the root directory of the folder containing each web mirror. These log files can be identified by the generic filename “hts-log.txt”, and they indicate when and where the automatically spidered web pages were downloaded, and where they are stored locally. A number of such log files are present on the produced DVDs.

14. In order to search through the materials in my general database, I rely on two software tools:

- 1.) ISYS Desktop 8 – A proprietary archival software package allowing fast, full-Boolean searches through filenames and file content spanning a range of materials, including Word Documents, Adobe PDF files, HTML pages, and much more.
- 2.) Mac OSX Spotlight Server – The database runs on a storage module connected to an Apple Mac Snow Leopard Server. Snow Leopard contains a built-in search feature known as “Spotlight” allowing instantaneous, live searches through filenames and content with limited Boolean language options.

---

<sup>2</sup> <http://www.httrack.com/> visited April 15, 2010.

Neither of these software packages independently or in conjunction with the other creates a single, divisible “index” file which is comprehensible to humans.

15. As noted above, as a good-faith compromise with Defendants’ request, I provided the Sub-Database which included all of the materials I relied upon in generating my opinion in these cases, in addition to many other materials that I did not rely upon in any way whatsoever in these cases.<sup>3</sup>

16. In generating and thereafter producing the Sub-Database to Defendants, I utilized WinZip software to compress the files and permit the fewest number of DVD discs to store the entire Sub-Database.

17. In addition, the compressed ZIP archive has a short, standard filename, which facilitates the storage of my folders and subfolders which, in their non-compressed form, contain special characters and/or exceed the 128 characters accepted by the standard ISO 9660 file system of contemporary DVD disks.

18. If I had not used WinZip to compress the Sub-Database, it would have been virtually impossible to store the entire contents of the Hamas-related materials in my general database on to any quantity of discs using an ISO 9660 format.

19. In order to extract files from the compressed Sub-Database, Defendants need merely to open the files stored on the DVDs provided to them with WinZip software and click “Extract.” This is a relatively standard, commonplace practice for data storage and retrieval.

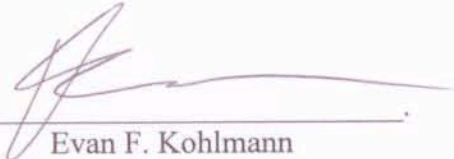
---

<sup>3</sup> I removed approximately 20 HTML files containing proprietary login information for Al-Qaida online message forums that are highly sensitive and irrelevant to this case.

20. When the DVD contents are extracted properly, one is able to see the contents exactly as I stored and organized them. The folders are demarcated as I have described above in paragraphs 11 and 12.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 29 day of April, 2010 by

  
Evan F. Kohlmann

**EXHIBIT 149 to Declaration of Joel Israel**

Page 1

1 UNITED STATES DISTRICT COURT  
 2 EASTERN DISTRICT OF NEW YORK  
 3 -----x  
 4 MOSES STRAUSS, et al.,  
 5 Plaintiffs,  
 6 -against-  
 7 CREDIT LYONNAIS, S.A.,  
 8 Defendants.  
 9 -----x  
 10 BERNICE WOLF, et al.,  
 11 Plaintiffs,  
 12 -against-  
 13 CREDIT LYONNAIS, S.A.,  
 14 Defendants.  
 15 -----x  
 16 One Liberty Plaza  
 17 New York, New York  
 18 November 4, 2010  
 19 9:38 a.m.  
 20  
 21 Videotaped Deposition of Expert  
 22 Witness, RONNI SHAKED, before Shari Cohen,  
 23 a Notary Public of the State of New York.  
 24  
 25 ELLEN GRAUER COURT REPORTING CO. LLC  
 126 East 56th Street, Fifth Floor  
 New York, New York 10022  
 212-750-6434  
 REF: 94816

Page 2

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Page 3

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 5 RUTH COHEN, Interpreter  
 6 CLARA BEYLER  
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Page 4

1 ----- I N D E X -----  
 2 WITNESS EXAMINATION BY PAGE  
 3 RONNI SHAKED MR. FRIEDMAN 8  
 4  
 5  
 6 ----- E X H I B I T S -----  
 7 SHAKED DESCRIPTION FOR I.D.  
 8 Exhs. 1-6 Documents 8  
 9 Exhibit 7 Invoices 35  
 10 Exhibit 8 Articles 62  
 11 Exhs. 9A-9B Documents 89  
 12 Exhibit 10 Publication 99  
 13 Exhibit 11 Article 101  
 14 Exhibit 12 Article 106  
 15 Exhibit 13 Report 107  
 16 Exhibit 14 Article 109  
 17 Exhibit 15 Article 113  
 18 Exhibit 16 Document 163  
 19 Exhs. 17A-17B Documents 186  
 20 Exhs. 18A-18B Documents 190  
 21 Exhs. 19A-19B Documents 193  
 22 Exhs. 20A-20B Documents 195  
 23 Exhibit 21 Document 199  
 24 Exhs. 22A-22B Article 202  
 25 Exhs. 23A-23B Documents 212



Page 5				Page 7			
1	----- E X H I B I T S (Cont'd) -----			1	P R O C E E D I N G S		
2	SHAKED	DESCRIPTION	FOR I.D.	2	THE VIDEOGRAPHER: This is tape		
3	Exhs. 24A-24B	Documents	241	3	one. We are now on the record. The		
4	Exhs. 25A-25B	Documents	243	4	time is 9:38 a.m. Today is Thursday,		
5	Exhs. 26A-26B	Documents	244	5	November 4, 2010. This is the opening		
6	Exhs. 27A-27B	Documents	246	6	of the deposition of Mr. Ronni Shaked		
7	Exhibit 28	Document	247	7	in the matter of Moses Strauss, et al.		
8	Exhibit 29	Rebuttal Report	247	8	verses Credit Lyonnais S.A. and also		
9	Exhs. 30A-30B	Article	251	9	in the matter of Wolf, et al. verses		
10	Exhs. 31A-31B	Documents	254	10	Credit Lyonnais S.A.		
11	Exhs. 32A-32B	Article	256	11	This deposition is being held		
12	Exhs. 33A-33B	Documents	267	12	at the offices of Cleary Gottlieb		
13				13	Steen & Hamilton which is located at		
14				14	One Liberty Plaza in New York, New		
15	(EXHIBITS TO BE PRODUCED)			15	York.		
16				16	Our court reporter today is		
17				17	Ms. Shari Cohen with Ellen Grauer		
18				18	Court Reporting. I'm the legal		
19				19	videographer Dan Macom also with Ellen		
20				20	Grauer Court Reporting.		
21				21	Will counsels please introduce		
22				22	themselves.		
23				23	MR. GLATTER: Good morning,		
24				24	Joshua Glatter, Osen LLC on behalf of		
25				25	the plaintiffs. I'm joined by Ari		
Page 6				Page 8			
1	S T I P U L A T I O N S			1	Ungar, Patricia Ronan and Clara Beylar		
2				2	as our own language assistant.		
3	IT IS HEREBY STIPULATED AND AGREED by			3	MR. FRIEDMAN: Lawrence		
4	and between the attorneys for the respective			4	Friedman, Cleary Gottlieb Steen &		
5	parties herein, that the filing, and sealing			5	Hamilton LLP on behalf of Credit		
6	of the within deposition be waived.			6	Lyonnais. With me are my colleagues		
7	IT IS FURTHER STIPULATED AND AGREED			7	Brendan Gibbon, Emily Piccone Eckstut		
8	that all objections, except as to the form of			8	and David Levy.		
9	the question, shall be reserved to the time			9	THE VIDEOGRAPHER: Will the		
10	of the trial.			10	court reporter please swear in the		
11	IT IS FURTHER STIPULATED AND AGREED			11	witness.		
12	that the within deposition may be sworn to			12	R U T H C O H E N, an interpreter,		
13	and signed before any officer authorized to			13	having been duly sworn by the Notary		
14	administer an oath with the same force and			14	Public, translated as follows:		
15	effect as if signed and sworn to before the			15	R O N N I S H A K E D, called as a witness,		
16	Court.			16	having been duly sworn by the Notary		
17				17	Public, was examined and testified as		
18				18	follows:		
19	-oOo-			19			
20				20	EXAMINATION BY		
21				21	MR. FRIEDMAN:		
22				22	(Shaked Exhibits 1-6,		
23				23	Documents, marked for Identification.)		
24				24	Q. Good morning, Mr. Shaked.		
25				25	A. Good morning.		

Page 21

1 SHAKED  
2 includes my work as a journalist covering  
3 terrorist activity in the West Bank and Gaza.  
4 Q. ISA investigations do not focus  
5 on an attempt to prove that a certain  
6 terrorist attack was committed by Hamas or  
7 another terrorist organization, correct?  
8 MR. GLATTER: Objection to  
9 form.  
10 A. No.  
11 Q. They don't focus on that?  
12 A. They focus on that, yes, excuse  
13 me, they focus on that.  
14 Q. Look at Exhibit 2. Look at  
15 your supplemental report, look at page 12.  
16 In the second full paragraph you wrote the  
17 following. "The investigations which were  
18 performed by the ISA" --  
19 A. Wait a minute, I have to find  
20 it. The second paragraph?  
21 Q. The second paragraph that  
22 begins with the words in accordance on page  
23 12. Let's look at Exhibit 4, Let's look at  
24 the red line. Go to page 12. We will use  
25 Exhibit 4 throughout because it will be

Page 22

1 SHAKED  
2 easier. Page 12. Do you see the paragraph  
3 under the heading official investigations, do  
4 you see that?  
5 A. Yes.  
6 Q. You wrote the following. "The  
7 investigations which were performed by the  
8 ISA" --  
9 A. In accordance with?  
10 Q. Yes, in the second sentence you  
11 wrote, "This being the case, the  
12 investigations which were performed by the  
13 ISA did not focus on an attempt to prove that  
14 a certain terrorist attack was committed by  
15 Hamas or by another terrorist organization,  
16 but rather on the identification and arrest  
17 of the members of the terrorist cell that  
18 perpetrated the attack with the objective of  
19 stopping the activity of the terrorist  
20 network", is that a true statement?  
21 A. That's true.  
22 Q. You said -- and was that true  
23 when you were in the ISA?  
24 A. Yes.  
25 Q. Have you ever before these

Page 23

1 SHAKED  
2 cases served as an expert in offering  
3 conclusions on the subject of which terrorist  
4 organization was responsible for an attack,  
5 have you ever been hired to do that before?  
6 A. No.  
7 Q. Do you have any professional  
8 training in determining which terrorist  
9 organization is responsible for committing an  
10 attack?  
11 MR. GLATTER: Objection to  
12 form.  
13 A. No, I don't have.  
14 Q. There are governmental agencies  
15 in Israel and in the occupied territories  
16 that are responsible for making assessments  
17 as to who is responsible for committing a  
18 terrorist attack, correct?  
19 MR. GLATTER: Objection to  
20 form.  
21 A. Possibly it's not right.  
22 Q. The Israel police have official  
23 responsibility for determining who's  
24 responsible for committing an attack; is that  
25 correct?

Page 24

1 SHAKED  
2 A. Who's committing attack, not  
3 the organization.  
4 Q. Have you ever been a member of  
5 the Israel police?  
6 A. No.  
7 Q. The police have tools,  
8 investigative tools that help them in  
9 fulfilling this responsibility, correct?  
10 MR. GLATTER: Objection to  
11 form.  
12 A. Not always.  
13 Q. But the police have the ability  
14 to detain and interrogate suspects for  
15 example, correct?  
16 A. That's correct.  
17 Q. They have the ability to  
18 perform searches and seizures, correct?  
19 A. Yes.  
20 Q. And the police communicate with  
21 the ISA and the IDF in the course of  
22 performing investigations, correct?  
23 A. Connected with the police, not  
24 police with the ISA.  
25 Q. Have you ever received any

Page 25

1 SHAKED  
2 police training from the Israel police?  
3 MR. GLATTER: Objection to  
4 form.  
5 A. I think in my career, yes, I  
6 was working sometimes with the police and  
7 they have some kind of training with the  
8 police, but it was many years ago.  
9 Q. When you were with the ISA?  
10 A. When I was with the ISA, yes.  
11 Q. In the occupied territories the  
12 investigative role that is performed by the  
13 Israel police within the green line in the  
14 occupied territories that role, that  
15 investigative role is fulfilled by the IDF,  
16 correct?  
17 MR. GLATTER: Objection to  
18 form.  
19 A. Repeat the question, please.  
20 Q. In the occupied territories,  
21 the investigative role that we just discussed  
22 that the Israel police perform within the  
23 green line, that investigative role in the  
24 occupied territories is performed by the IDF,  
25 correct?

Page 26

1 SHAKED  
2 MR. GLATTER: Objection to  
3 form.  
4 A. No.  
5 Q. By whom is it performed?  
6 A. It's performed by the police.  
7 Q. By the same Israel police?  
8 A. By the Israel police acting  
9 also in the occupied territories.  
10 Q. In Israel prosecutors decide  
11 whether to bring charges for committing a  
12 terrorist attack based on the evidence  
13 provided to them by the police, correct?  
14 MR. GLATTER: Objection to  
15 form.  
16 A. Yes.  
17 Q. In the occupied territories  
18 there are military prosecutors who do the  
19 same thing, they decide whether to bring  
20 charges for committing a terrorist attack  
21 based on the information provided to them by  
22 the investigators, correct?  
23 MR. GLATTER: Objection to  
24 form.  
25 A. Investigation of whom?

Page 27

1 SHAKED  
2 Q. Of the suspects that the  
3 prosecutors are considering bringing charges  
4 against?  
5 A. From where they got it?  
6 Q. From the police?  
7 A. From the police, yes.  
8 Q. The role that's filled by  
9 prosecutors in deciding to bring charges in  
10 Israel is performed by military prosecutors  
11 in the occupied territories, correct?  
12 A. Correct.  
13 Q. You have never been a  
14 prosecutor, correct?  
15 A. Never.  
16 Q. You have no legal training?  
17 A. No.  
18 Q. You are not a lawyer?  
19 A. I'm not a lawyer.  
20 Q. You have never been trained as  
21 a prosecutor?  
22 A. Never.  
23 Q. In Israel judges determine  
24 whether someone is guilty for having  
25 committed a terrorist attack, correct?

Page 28

1 SHAKED  
2 MR. GLATTER: Objection to  
3 form.  
4 A. Right.  
5 Q. In the occupied territories  
6 that role is fulfilled by military judges of  
7 the military courts, correct?  
8 MR. GLATTER: Objection to  
9 form.  
10 A. Correct.  
11 Q. In Israel judges are selected  
12 for their positions based on experience --  
13 their experience and merit, correct?  
14 MR. GLATTER: Objection to  
15 form, object to the extent beyond the  
16 scope of Mr. Shaked's opinion. You  
17 may answer.  
18 A. I don't know. I'm not there.  
19 I just can imagine, that's all. I don't know.  
20 Q. You don't know on what basis  
21 judges are selected in Israel?  
22 A. I can imagine like according to  
23 their experience, education, other things,  
24 but it's not my -- I'm not interested in this  
25 field.



Page 37

1 SHAKED  
2 transcripts of other depositions in these  
3 cases?  
4 A. No.  
5 Q. You know Mr. Spitzen?  
6 A. Yes, I do know Mr. Spitzen,  
7 Ariel Spitzen.  
8 Q. You worked Mr. Spitzen?  
9 A. I'm not working with him.  
10 MR. GLATTER: Let Mr. Friedman  
11 finish his question before you answer.  
12 That's what he wants you to do.  
13 That's what we all want you to do.  
14 Q. In the past you have worked  
15 with Mr. Spitzen, correct?  
16 A. No, it was not work.  
17 Q. What was it?  
18 A. Mr. Spitzen was a specialist  
19 and he was the advisor of Palestinian affairs  
20 to the defense ministry. From time to time  
21 as a journalist I got permission to talk with  
22 him three or four times, not more than that,  
23 in a year that's what they gave me and it was  
24 just exchange of views because I think and  
25 sometimes we were just sitting and talking

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1 SHAKED  
2 about what's happened in the territories. I  
3 be frank with you perhaps Spitzen came to my  
4 home two months ago just to give condolences.  
5 Q. I'm sorry for your loss. Have  
6 you had any communication with him concerning  
7 your work or his work on these cases?  
8 A. No.  
9 Q. What about Evan Kohlmann, have  
10 you ever met him?  
11 A. Never.  
12 Q. Matthew Levitt?  
13 A. Matthew Levitt I just heard  
14 about him because of the Hebrew University  
15 and because as a journalist I heard about  
16 him. I don't know who is. I didn't met him  
17 until today. I'll be happy to meet him one  
18 day.  
19 Q. What about Shaul Naim, have you  
20 ever had any contact with him?  
21 A. I don't know who is Shaul Naim.  
22 Q. You read Mr. Azoulay's rebuttal  
23 report?  
24 A. Yes, I do.  
25 Q. Had you ever heard of Mr.

Page 39

1 SHAKED  
2 Azoulay before you read his report?  
3 A. No.  
4 Q. Did you read Brian Jenkins'  
5 rebuttal report?  
6 A. Yes, I read.  
7 Q. Had you ever heard of Mr.  
8 Jenkins before you read his report?  
9 A. As far as I recall, no.  
10 Q. Mr. Shaked, have you ever  
11 expressed an opinion that is inconsistent  
12 with any of the opinions you express in your  
13 reports?  
14 MR. GLATTER: Objection to  
15 form.  
16 A. Maybe, but as far as I can  
17 recall, no.  
18 Q. Do you maintain a resume or  
19 curriculum vitae? Do you have a piece of  
20 paper on which you have a listing of your  
21 prior experience?  
22 A. Yes, I do.  
23 Q. Where do you keep that?  
24 A. In Jerusalem.  
25 Q. In your office?

Page 40

1 SHAKED  
2 A. In my office.  
3 Q. Do you have multiple versions  
4 of your CV or just the current version?  
5 A. No, when I finish I just edit  
6 or when I did something else I edit.  
7 Q. In your office you have a copy  
8 of your current CV?  
9 A. Yes, I do.  
10 Q. You have a master's degree in  
11 middle eastern studies from Hebrew University  
12 of Jerusalem?  
13 A. Yes, I'm happy to say, yes.  
14 Q. When did you receive that?  
15 A. I received it in 2006.  
16 Q. 2006?  
17 A. 2006.  
18 Q. What is middle eastern studies?  
19 A. Middle eastern studies it's  
20 study about the history, culture, tradition,  
21 language, everything that belong to the  
22 Middle East.  
23 Q. In pursuing your master's  
24 program, did you have any particular focus in  
25 middle eastern studies?

Page 41

1 SHAKED  
2 A. Yes, I did.  
3 Q. What was that?  
4 A. Suicide bombing.  
5 Q. Did you take courses on suicide  
6 bombings?  
7 A. Yes, I did.  
8 Q. How many courses?  
9 A. I took two courses in the  
10 Hebrew University of Jerusalem.  
11 Q. What were the names of those  
12 courses?  
13 A. Wow, suicide -- I don't  
14 remember. I can bring it to you. Professor  
15 Gidon Aren and Professor Avraham Sela.  
16 Q. Could you spell both of their  
17 names?  
18 A. G-I-D-O-N, A-R-E-N, specialist  
19 for suicide bombers and Avraham like Abraham,  
20 S-E-L-A, Professor Abraham Sela.  
21 Q. What was the name as best you  
22 recall of Mr. Aren's course, Professor Aren's  
23 course?  
24 A. Culture of suicide bombers or  
25 something like this and influence on society

Page 42

1 SHAKED  
2 or something like this. If it's necessary I  
3 can bring it to you.  
4 Q. Just so we know, where do you  
5 have that title listed that you could get it  
6 for us?  
7 MR. GLATTER: Objection to  
8 form, but you can answer.  
9 A. You can get it from every book  
10 of the Hebrew University of Jerusalem, it's  
11 not a problem.  
12 Q. And what department does  
13 Professor Aren teach?  
14 A. Sociology.  
15 Q. What was the name of Professor  
16 Sela's course you took?  
17 A. Hamas and it was terrorism and  
18 beliefs or -- wow, Hamas and -- Hamas as a  
19 culture or something like this and then Hamas  
20 terrorism, ideology and culture.  
21 Q. In what department does  
22 Professor Sela teach?  
23 A. He's teaching in international  
24 relations, political science.  
25 Q. Did you take any other courses

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1 SHAKED  
2 that related to terrorism?  
3 A. Not directly to terrorism.  
4 Q. Did you write a thesis or paper  
5 as part of getting your master's degree?  
6 A. Of course.  
7 Q. What was the title of your  
8 paper?  
9 A. On their dead bodies.  
10 Q. What was the subject of your  
11 paper?  
12 A. The suicide bombers to -- I  
13 explain the phenomena in the Palestinian  
14 society.  
15 Q. From a sociological  
16 perspective?  
17 A. From sociological and from my  
18 experience not just but especially from the  
19 sociology point of view.  
20 Q. Especially from the  
21 sociological point of view?  
22 A. Yes.  
23 Q. Did you have a faculty advisor  
24 in connection with that paper?  
25 A. Of course.

Page 44

1 SHAKED  
2 Q. Who was that?  
3 A. Dr. Anat Lapidoth.  
4 Q. Could you spell that?  
5 A. Anat, A-N-A-T, Lapidoth,  
6 L-A-P-I-D-O-T-H.  
7 Q. What department is Dr. Lapidoth  
8 in?  
9 A. Middle eastern -- current  
10 middle eastern studies.  
11 Q. What is her specialty?  
12 A. She specialist with  
13 Palestinians, myth, culture and social  
14 affairs.  
15 Q. Do you have a bachelor's  
16 degree?  
17 A. Of course I have.  
18 Q. From where?  
19 A. Hebrew University of Jerusalem.  
20 Q. In what year?  
21 A. It was in 1969.  
22 Q. In what field?  
23 A. Middle East studies and Arabic.  
24 Q. What did you do before you  
25 joined the ISA in 1969 between school and

<p>Page 45</p> <p>1 SHAKED</p> <p>2 joining the ISA or did you go right to the</p> <p>3 ISA from school?</p> <p>4 A. I was a student. My teacher</p> <p>5 took me there.</p> <p>6 Q. You graduated from Hebrew</p> <p>7 University in 1969?</p> <p>8 A. While I was working in the ISA.</p> <p>9 Q. You went right into the ISA?</p> <p>10 A. Yes.</p> <p>11 Q. Take a look at page 1 of</p> <p>12 Exhibit 4 in the second paragraph, second</p> <p>13 sentence?</p> <p>14 A. Starting with?</p> <p>15 Q. Starting with the words I held</p> <p>16 a number of positions, do you see that?</p> <p>17 A. Not yet.</p> <p>18 Q. You say that you devoted a year</p> <p>19 of your service with the ISA to the study of</p> <p>20 terrorism and the development of theories</p> <p>21 aimed at the defeating of terrorism, what</p> <p>22 year was that?</p> <p>23 A. 1974, 1975.</p> <p>24 Q. That was before Hamas was</p> <p>25 founded, correct?</p>	<p>Page 47</p> <p>1 SHAKED</p> <p>2 Q. Have you held any government</p> <p>3 posts since you left the ISA?</p> <p>4 A. No thanks.</p> <p>5 Q. You have been a commentator and</p> <p>6 analyst for Yediot since 1982?</p> <p>7 A. Yes, I do.</p> <p>8 Q. That's been your sole</p> <p>9 employment since 1982?</p> <p>10 A. Yes, that's my sole employment.</p> <p>11 Q. May I call it Yediot?</p> <p>12 A. Yediot is okay. That's what</p> <p>13 everybody in Israel also say Yediot.</p> <p>14 Q. In your self introduction in</p> <p>15 your report you say that you are also a</p> <p>16 researcher at the Hebrew University of</p> <p>17 Jerusalem?</p> <p>18 A. Yes.</p> <p>19 Q. Can you tell me what that is,</p> <p>20 who you research for, what you do?</p> <p>21 A. I'm a research member in the</p> <p>22 Israeli -- in the Jerusalem Institute for</p> <p>23 Israel Studies. It's part of the Hebrew</p> <p>24 University of Jerusalem.</p> <p>25 Q. What's the Jerusalem Institute</p>
<p>Page 46</p> <p>1 SHAKED</p> <p>2 A. Before Hamas.</p> <p>3 Q. Hamas was founded in 1987?</p> <p>4 A. Yes, you're right.</p> <p>5 Q. What did you do during your</p> <p>6 other years with the ISA?</p> <p>7 A. I was a handler and -- most of</p> <p>8 the years I was a handler.</p> <p>9 Q. For informants?</p> <p>10 A. Of agent, of Palestinian agent</p> <p>11 that we send them or recruit them from cell</p> <p>12 of terrorism.</p> <p>13 Q. When you left the ISA in 1982,</p> <p>14 you joined Yediot Aharonot?</p> <p>15 Q. Yes, I did.</p> <p>16 Q. Why did you leave the ISA?</p> <p>17 A. After the war in Lebanon I</p> <p>18 decided to leave it.</p> <p>19 Q. Why?</p> <p>20 A. Ask my wife.</p> <p>21 Q. She's not here.</p> <p>22 A. Okay, you can imagine.</p> <p>23 Q. You were unhappy?</p> <p>24 A. She was not happy, okay. The</p> <p>25 children. I didn't know even my children.</p>	<p>Page 48</p> <p>1 SHAKED</p> <p>2 for Israel Studies?</p> <p>3 A. It's an academic institute that</p> <p>4 belongs to the Hebrew University of Jerusalem</p> <p>5 that's focused on Jerusalem and peace --</p> <p>6 focus on peace and focus on Palestinians and</p> <p>7 other problems that related to the -- let's</p> <p>8 say to the relationship between Jews and</p> <p>9 Arabs.</p> <p>10 Q. For whom do you perform</p> <p>11 research?</p> <p>12 A. To the university and the</p> <p>13 research will be part of publishing, part of</p> <p>14 it for newsletter, for things like this.</p> <p>15 Q. For how long have you done</p> <p>16 this?</p> <p>17 A. I've done it just that's a</p> <p>18 year-and-a-half. A year. A year let's say.</p> <p>19 Q. A year and how many hours a</p> <p>20 week on average do you devote to this?</p> <p>21 A. At least a day-and-a-half, two</p> <p>22 days a week. Two days.</p> <p>23 Q. Are you paid for this work?</p> <p>24 A. No, not yet.</p> <p>25 Q. Are there particular persons to</p>

<p style="text-align: right;">Page 49</p> <p>1 SHAKED</p> <p>2 whom you are assigned to perform research?</p> <p>3 A. Of course.</p> <p>4 Q. Who are they?</p> <p>5 A. Professor Yakov Bar Simen Tov.</p> <p>6 Q. Can you spell that?</p> <p>7 A. Jacob, Bar, B-A-R, Simen,</p> <p>8 S-I-M-E-N, Tov, T-O-V.</p> <p>9 Q. What is his field?</p> <p>10 A. Resolution of conflicts.</p> <p>11 Q. Is he with a particular</p> <p>12 department at the Hebrew University?</p> <p>13 A. He's the head of the department</p> <p>14 of resolution -- of conflict resolution.</p> <p>15 Q. What is his specialty?</p> <p>16 A. Theories of conflict</p> <p>17 resolution, not of conflict.</p> <p>18 Q. Theories of conflict</p> <p>19 resolution?</p> <p>20 A. Conflict resolution.</p> <p>21 Q. And your research at the Hebrew</p> <p>22 University is devoted to supporting writings</p> <p>23 of Professor Simen Tov?</p> <p>24 MR. GLATTER: Objection to</p> <p>25 form.</p>	<p style="text-align: right;">Page 51</p> <p>1 SHAKED</p> <p>2 understand the behavior of society in a</p> <p>3 conflict.</p> <p>4 Q. Who is the professor?</p> <p>5 A. Professor Daniel Bar Tal. Very</p> <p>6 known professor. He's now at Yale University</p> <p>7 -- Brandice University.</p> <p>8 Q. Can you spell his name?</p> <p>9 A. Daniel Bar Tal T-A-L. I have</p> <p>10 three professor helping me.</p> <p>11 Q. Who are the other two?</p> <p>12 A. The other one is Eli Podeh.</p> <p>13 Q. Can you spell that for me?</p> <p>14 A. Eli E-L-I, Podeh, P-O-D-E-H.</p> <p>15 He's from the Hebrew University of Jerusalem</p> <p>16 department of Middle East studies and Dr.</p> <p>17 Meir Hatina, specialist on Islamist or</p> <p>18 fundamentalistic Islam ideology.</p> <p>19 Q. What department is he in?</p> <p>20 A. Middle East studies.</p> <p>21 Q. What is Professor Podeh's</p> <p>22 specialty?</p> <p>23 A. Podeh is the head of the Middle</p> <p>24 East studies in Hebrew University of</p> <p>25 Jerusalem.</p>
<p style="text-align: right;">Page 50</p> <p>1 SHAKED</p> <p>2 A. Part of my studies, yes, just</p> <p>3 part of it.</p> <p>4 Q. Is there another part?</p> <p>5 A. Yeah.</p> <p>6 Q. What's that?</p> <p>7 A. Another part I'm making my</p> <p>8 Ph.D. studies. I'm student of Ph.D.</p> <p>9 Q. You are a year into that?</p> <p>10 A. Yeah.</p> <p>11 Q. In what field are you pursuing</p> <p>12 a Ph.D.?</p> <p>13 A. Again, I'm searching the ethos</p> <p>14 of conflict of the Palestinian society. I'm</p> <p>15 taking tools from psychology, social</p> <p>16 psychology and use them as tools of research</p> <p>17 of the Palestinian society.</p> <p>18 Q. Briefly what do you mean by</p> <p>19 tools from social psychiatry?</p> <p>20 A. Nobody made research on the</p> <p>21 Palestinian side of the Israeli society</p> <p>22 about the psychology effect on the conflict.</p> <p>23 My Professor Daniel Bar Tal did a research on</p> <p>24 the Israeli side and what I'm doing now I'm</p> <p>25 taking the Palestinian side in order to</p>	<p style="text-align: right;">Page 52</p> <p>1 SHAKED</p> <p>2 Q. What is his specialty?</p> <p>3 A. The Israeli Arab conflict and</p> <p>4 especially Egypt.</p> <p>5 Q. Professor Bar Tal?</p> <p>6 A. He's a social psychologist.</p> <p>7 The head of the department in Tel Aviv</p> <p>8 University.</p> <p>9 Q. Is it fair to say your work as</p> <p>10 a researcher is in the context of your being</p> <p>11 a Ph.D. student?</p> <p>12 MR. GLATTER: Objection to</p> <p>13 form.</p> <p>14 A. Yes.</p> <p>15 Q. You write in your report that</p> <p>16 you have worked as a consultant for the FBI.</p> <p>17 Can you tell me what that is?</p> <p>18 MR. GLATTER: Where are you</p> <p>19 looking at?</p> <p>20 MR. FRIEDMAN: On page 2,</p> <p>21 A. There were several cases in the</p> <p>22 U.S. of Palestinian terrorism that they ask</p> <p>23 me advice. I don't want to talk about it in</p> <p>24 a loud voice because I was asked not to tell</p> <p>25 about the cases.</p>

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1 SHAKED  
2 Q. Were you compensated?  
3 A. No.  
4 Q. The FBI asked you for your  
5 advice?  
6 A. Asked me for it.  
7 Q. When was this?  
8 A. It was first in 1996 and then  
9 in 2002 and then in 2004. I don't remember  
10 exactly the years.  
11 Q. Did you meet with FBI agents or  
12 did you speak with them on the phone?  
13 A. I met with them.  
14 Q. Where did you meet with them?  
15 A. In Chicago, in Florida.  
16 Q. How many times did you meet  
17 with the FBI agents?  
18 A. Please.  
19 Q. Could you give me a number?  
20 A. I was several times here.  
21 Q. And you were not paid for this  
22 work?  
23 MR. GLATTER: Asked and  
24 answered. You can answer again.  
25 A. No.

Page 54

1 SHAKED  
2 Q. You say that you served once as  
3 a consultant for the U.S. Department of  
4 Justice, what does that refer to?  
5 A. The U.S. Department of Justice  
6 made the investigation about several cases  
7 especially the case of Arian if you remember  
8 in Tampa, Florida and in other cases that I  
9 don't -- it was not published yet that I can  
10 not talk and I met with people that came to  
11 Israel several times.  
12 Q. Were you compensated?  
13 A. No.  
14 Q. They asked for your advice?  
15 A. Yes.  
16 Q. You also write that you have  
17 served as a consultant to the Anti-Defamation  
18 League?  
19 A. Yes.  
20 Q. What is that about?  
21 A. The Anti-Defamation League as  
22 far as you know it's a Jewish or big  
23 organization and when terrorism started to be  
24 a big problem, not just here, but also in the  
25 Middle East, not just here, we decided to

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1 SHAKED  
2 open what called terrorism desk.  
3 Q. At the newspaper at Yediot?  
4 A. No, at ADL.  
5 Q. I'm sorry.  
6 A. And we had the newsletter, the  
7 ADL had the newsletter about terrorism and I  
8 wrote it or I collect information in part and  
9 I wrote part of it because it was a global  
10 terrorism, not just in the Middle East.  
11 Q. To make sure I'm clear, Mr.  
12 Shaked, you are referring here to work you  
13 did to gather information and write articles  
14 for the ADL newsletter on global terrorism?  
15 A. Yes.  
16 Q. Were you compensated for that?  
17 A. No.  
18 Q. When did you do that?  
19 A. It started in 1996 after the  
20 big problem of terrorism in Jerusalem and  
21 until 2000 when they stopped to publish the  
22 newsletter.  
23 Q. You say that you also worked as  
24 a consultant to CBS News, what is that?  
25 A. CBS News in Jerusalem they have

Page 56

1 SHAKED  
2 a big branch and since the first intifada and  
3 especially in the second intifada I had to  
4 give them just to explain them what happened  
5 in order to facilitate the way that the  
6 reporter who came from the United States will  
7 understand and knows how to deliver the stuff  
8 from the West Bank to you to the American  
9 people.  
10 Q. Were you compensated for this?  
11 A. Yes, sometimes. I didn't work  
12 on a daily or monthly, but on cases.  
13 Q. You provided advice to CBS News  
14 as to how it could gather and report news  
15 from Israel?  
16 A. No, I gave them explanation  
17 about the situation of the Palestinians.  
18 Q. When did you do this, what  
19 years?  
20 A. I did it till the last year I  
21 think.  
22 Q. On a compensated basis?  
23 A. Hum?  
24 Q. On a compensated basis?  
25 A. Yes.



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1 SHAKED  
2 Section 1 of Mr. Shaked's 1994 book.  
3 (Shaked Exhibit 9A-9B,  
4 Documents, marked for Identification.)  
5 Q. Do you recognize Exhibit 9A as  
6 a copy of Section 1 of your 1994 book?  
7 A. Yes, I recognize.  
8 MR. GLATTER: Just for the  
9 record with respect to Exhibit 9B we  
10 just reserve our rights as to the  
11 accuracy and correctness of the  
12 certified translation.  
13 Q. Are you aware of any factual  
14 statements in this Section 1 that are false?  
15 MR. GLATTER: Objection to  
16 form. Withdrawn.  
17 A. Yeah.  
18 Q. Are you aware of anything in  
19 this section that is mistaken?  
20 MR. GLATTER: Objection to  
21 form.  
22 Q. Let me put it this way. Mr.  
23 Shaked, since you published this in 1994, has  
24 it ever come to your attention that something  
25 here is inaccurate?

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1 SHAKED  
2 MR. GLATTER: Objection to  
3 form, vague.  
4 A. I don't think it's not  
5 accurate.  
6 Q. At the beginning of this  
7 section you describe the abduction of an IDF  
8 sergeant major in December 1992, correct?  
9 A. Correct.  
10 Q. And as you describe here the  
11 men who abducted him delivered a letter in  
12 which they identified themselves as members  
13 of the al-Qassam military arm of Hamas and  
14 offered to exchange him for Sheik Yasin,  
15 correct?  
16 A. Correct.  
17 Q. The letter was signed by the  
18 special unit of the El Aladin as-Qassam  
19 battalion Hamas military arm, correct?  
20 A. Correct.  
21 Q. You note here that no one in  
22 Hamas' command knew anything about this,  
23 correct?  
24 A. Correct.  
25 Q. And you state that the four men

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1 SHAKED  
2 who committed this kidnapping joined  
3 al-Qassam only after this incident, correct?  
4 A. Correct.  
5 Q. You note that two of Hamas'  
6 leaders made statements to the press  
7 indicating that Hamas was responsible for  
8 this abduction, correct?  
9 A. Correct.  
10 Q. You note that the Hamas  
11 representative in Jordan said that Hamas was  
12 prepared to release Sergeant Major Toledano  
13 in exchange for Sheik Yasin, correct?  
14 A. Correct.  
15 Q. You also note that Sheik Yasin  
16 requested that negotiations be carried out  
17 for his release and Hamas agreed, correct?  
18 A. Correct.  
19 Q. And you describe here a flyer  
20 that was distributed in Hebron that was  
21 signed "Hamas Office of Public Relations",  
22 correct?  
23 A. Let me see where it is. I  
24 don't remember Hebron leaflet.  
25 Q. I think it's on page 8.

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1 SHAKED  
2 MR. GLATTER: You are referring  
3 to 9B, Larry, when you --  
4 MR. FRIEDMAN: Josh, please  
5 stop interrupting me.  
6 MR. GLATTER: No, I have to  
7 know if you are pointing to something  
8 and saying page 8, I don't know if  
9 it's in the English or Hebrew. You  
10 provided us with a certified --  
11 MR. FRIEDMAN: I think our  
12 translators matched the pages.  
13 MR. GLATTER: Okay, it's the  
14 first time I'm seeing this  
15 translation.  
16 Q. You describe here a flyer that  
17 was distributed in Hebron that was signed  
18 "Hamas Office of Public Relations", correct?  
19 A. Where is it, please?  
20 Q. If you look at page 8, there is  
21 a paragraph that in my English translation  
22 begins with the words "On that same day a  
23 flyer was distributed in Hebron signed by  
24 'Hamas Office of Public Relations'", do you  
25 see that?

**EXHIBIT 150 to Declaration of Joel Israel**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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COURTNEY LINDE, et al.,  
Plaintiffs,  
-against-  
ARAB BANK, PLC,  
Defendant.

:  
:  
:  
:  
:  
: Case No.:  
: CV 04 2799 (NG) (VVP)

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PHILIP LITTLE, et al.,  
Plaintiffs,  
-against-  
ARAB BANK, PLC,  
Defendant.

:  
:  
:  
:  
:  
: Case No.:  
: CV 04 5449 (NG) (VVP)

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ORAN ALMOG, et al.,  
Plaintiffs,  
-against-  
ARAB BANK, PLC,  
Defendant.

:  
:  
:  
:  
:  
: Case No.:  
: CV 04 5564 (NG) (VVP)

VIDEOTAPED DEPOSITION OF RONNI SHAKED  
(VOLUME I)  
Tel Aviv, Israel  
August 2, 2011

Reported by: BRENDA MATZOV, CA CSR 9243



RONNI SHAKED - 8/2/2011

Page 2	Page 4
<p>1 ROBERT L. COULTER, SR., FOR :  2 THE ESTATE OF JANIS RUTH :  COULTER, et al., :  3 Plaintiffs, :  4 -against- : Case No.:  : CV 05 365 (NG) (VVP)  5 ARAB BANK, PLC, :  6 Defendant. :  7 :  8 GILA AFRIAT-KURTZER, et al., :  9 Plaintiffs, :  10 -against- : Case No.:  : CV 05 388 (NG) (VVP)  11 ARAB BANK, PLC, :  12 Defendant. :  13 :  14 MICHAEL BENNETT, et al., :  15 Plaintiffs, :  16 -against- : Case No.:  : CV 05 3183 (NG) (VVP)  17 ARAB BANK, PLC, :  18 Defendant. :  19 :  20 ARNOLD ROTH, et al., :  21 Plaintiffs, :  22 -against- : Case No.:  : CV 05 3738 (NG) (VVP)  23 ARAB BANK, PLC, :  24 Defendant. :  25 :</p>	<p>1 Videotaped deposition of RONNI SHAKED  2 (VOLUME I), taken in the above-entitled cause pending  3 in the United States District Court, Eastern District  4 of New York, pursuant to notice, before BRENDA MATZOV,  5 CA CSR 9243, at the David Intercontinental Hotel,  6 12 Kaufman Street, Conference Room 1123, Tel Aviv,  7 Israel, on Tuesday, the 2nd day of August, 2011,  8 at 10:02 a.m.  9  10  11  12 APPEARANCE OF COUNSEL:  13 FOR PLAINTIFFS:  14 OSEN, LLC  15 By: GARY M. OSEN, ESQ.  ARI UNGAR, ESQ.  CINDY T. SCHLANGER, ESQ.  16 700 Kinderkamack Road  Oradell, New Jersey 07649  17 (201) 265-6400 / Fax (201) 265-0303  gmo@osen.us  18 au@osen.us  cts@osen.us  19  20 FOR DEFENDANT:  21 DEWEY &amp; LeBOEUF, LLP  22 By: ALAN SALPETER, ESQ.  Two Prudential Plaza  180 North Stetson Avenue  23 Suite 3700  Chicago, Illinois 60601  24 (312) 794-8000 / Fax (312) 794-8100  asalpeter@dl.com  25</p>
Page 3	Page 5
<p>1 STEWART WEISS, et al., :  2 Plaintiffs, :  3 -against- : Case No.:  : CV 06 1623 (NG) (VVP)  4 ARAB BANK, PLC, :  5 Defendant. :  6 :  7 JOSEPH JESNER, et al., :  8 Plaintiffs, :  9 -against- : Case No.:  : CV 06 3869 (NG) (VVP)  10 ARAB BANK, PLC, :  11 Defendant. :  12 :  13 YAFFA LEV, et al., :  14 Plaintiffs, :  15 -against- : Case No.:  : CV 08 03251 (NG) (VVP)  16 ARAB BANK, PLC, :  17 Defendant. :  18 :  19 VIKTORIA AGURENKO, et al., :  20 Plaintiffs, :  21 -against- : Case No.:  : CV 10 00626 (NG) (VVP)  22 ARAB BANK, PLC, :  23 Defendant. :  24 :  25 :</p>	<p>1 APPEARANCE OF COUNSEL (Continued):  2 FOR DEFENDANT:  3 DEWEY &amp; LeBOEUF, LLP  4 By: ALAN B. HOWARD, ESQ.  GASSAN A. BALOUL, ESQ.  1301 Avenue of the Americas  5 New York, New York 10019-6092  (212) 259-8000 / Fax (212) 259-6333  6 ahoward@dl.com  gbaloul@dl.com  7  8 ISRAELI COUNSEL TO DEWEY &amp; LeBOEUF:  9 EPSTEIN, CHOMSKY, OSNAT &amp; CO.  10 By: KIYAN BLAL, ADVOCATE  Rubinstein House  20 Lincoln Street  11 Tel Aviv, Israel 67134  +972 (3) 561-4777 / Fax +972 (3) 561-4776  12 kiyانب@ecglaw.com  13  14 ALSO PRESENT:  15 DORON MATZOV, Videographer  16 VARDIA YA'ARI, Hebrew Interpreter  17 MICHAL MARIN, Hebrew Interpreter  18 ASSAF BRESSLER, MM Law  19  20  21  22  23  24  25</p>

2 (Pages 2 to 5)

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RONNI SHAKED - 8/2/2011

Page 6				Page 8			
1	I N D E X			1	P R O C E E D I N G S		
2	WITNESS			2			
3	Ronni Shaked (Volume I)			3	THE VIDEOGRAPHER: This is the video operator		
4				4	speaking, Doron Matzov of Merrill Legal Solutions,		
5	EXAMINATION		PAGE	5	225 Varick Street, New York, New York 10014.		
6	By Mr. Salpeter		9	6	Today is August 2nd, 2011, and the time is		
7				7	10:02 a.m. We are at the David Intercontinental Hotel,		
8				8	Tel Aviv, Israel, to take the videotape deposition of		
9	E X H I B I T S			9	Mr. Ronni Shaked, in the matter of Linde, et al., versus		
10	NUMBER	DESCRIPTION	PAGE	10	Arab Bank, PLC, case No. 04 279 [sic] and related cases		
11	Exhibit 1	Document Entitled "Expert Report of Ronni Shaked, Linde v. Arab Bank, PLC, 04 CV 2799 (NG) (VVP) and Related Cases"		11	in the United States District Court, Eastern District		
12		(No Bates Number)	12	12	of New York.		
13	Exhibit 2	Arabic Document		13	Will counsel please introduce themselves for		
14		(No Bates Number)	116	14	the record.		
15	Exhibit 3	Internet Archive Website Printout, Entitled "Terms of Use," Dated March 10, 2001		15	MR. UNGAR: Ari Ungar, Osen, LLC, Oradell,		
16		(No Bates Number)	134	16	New Jersey, on behalf of the Linde and Coulter		
17	Exhibit 4	Jerusalem Post Website Printout, Entitled "Bomb Horror Hits Tel Aviv Disco," Dated June 4 (no year)		17	plaintiffs. I'm joined by my colleagues, Gary Osen		
18		(No Bates Number)	166	18	and Cindy Schlanger.		
19	Exhibit 5	Israel Ministry of Foreign Affairs Internet Printout, Entitled "Tel Aviv Suicide Bombing at the Dolphin Disco - 1 June 2001," Dated June 2, 2001		19	MR. BRESSLER: Assaf Bressler, on behalf of		
20		(No Bates Number)	170	20	MM Law.		
21				21	MR. SALPETER: Alan Salpeter, from Dewey &		
22				22	LeBoeuf, representing Arab Bank.		
23				23	MR. BALOUL: Gassan Baloul, from Dewey &		
24				24	LeBoeuf. I represent Arab Bank.		
25				25	MR. BLAL: Kiyam Blal, from the Epstein,		

Page 7				Page 9			
1	I N D E X (Continued)			1	Chomsky, Osnat law firm, for Arab Bank.		
2				2	MR. HOWARD: Alan Howard, of Dewey & LeBoeuf,		
3	Q U E S T I O N S I N S T R U C T E D			3	for Arab Bank.		
4	N O T T O A N S W E R			4	THE VIDEOGRAPHER: Will the court reporter,		
5	PAGE		LINE	5	Brenda Matzov of Merrill Legal Solutions, please swear		
6	82		13	6	in the witness and the interpreters.		
7				7			
8				8	VARDA YA'ARI -and- MICHAL MARIN,		
9				9	the interpreters, were duly affirmed to		
10				10	translate from English to Hebrew and from		
11				11	Hebrew to English.		
12				12			
13				13	RONNI SHAKED,		
14				14	called as a witness, being first duly		
15				15	affirmed, was examined and testified		
16				16	as hereinafter set forth:		
17				17			
18				18	(The following proceedings were conducted		
19				19	through the Hebrew interpreters, unless otherwise		
20				20	indicated.)		
21				21			
22				22	EXAMINATION		
23				23	BY MR. SALPETER:		
24				24	Q. Good morning, sir.		
25				25	Again, my name is Alan Salpeter. I'm one of		

3 (Pages 6 to 9)

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RONNI SHAKED - 8/2/2011

Page 18	Page 20
<p>1 MR. UNGAR: Objection to form and foundation.</p> <p>2 THE WITNESS: Indeed, I am.</p> <p>3 Q. BY MR. SALPETER: Are you aware of the</p> <p>4 rule that says that substantive mistakes, omissions,</p> <p>5 or inaccuracies in a publication of facts must be</p> <p>6 corrected speedily, fairly, and with the appropriate</p> <p>7 emphasis relative to the original publication?</p> <p>8 MR. UNGAR: Same objections.</p> <p>9 THE WITNESS: I am familiar with it, indeed.</p> <p>10 Q. BY MR. SALPETER: Have you followed all of</p> <p>11 these rules of professional ethics for journalists in</p> <p>12 issuing your expert report in this case?</p> <p>13 MR. UNGAR: Objection to form.</p> <p>14 THE WITNESS: Yes. But this report was not</p> <p>15 submitted as a journalist report.</p> <p>16 Q. BY MR. SALPETER: Have you followed the rules</p> <p>17 that I just referred to in issuing this report?</p> <p>18 MR. UNGAR: Objection to form. Asked and</p> <p>19 answered.</p> <p>20 THE WITNESS: To the best of my recollection</p> <p>21 and to the best of my understanding, yes.</p> <p>22 Q. BY MR. SALPETER: Are there any of these rules</p> <p>23 that you do not follow?</p> <p>24 MR. UNGAR: Objection to form. Asked and</p> <p>25 answered.</p>	<p>1 (In English.) That's what it says.</p> <p>2 (Translated.) That's what it says here.</p> <p>3 And I would like to correct and say that Hamas was</p> <p>4 an important part of the action or the operation, but</p> <p>5 not doing its execution.</p> <p>6 Q. Is that the correction?</p> <p>7 A. Yes. Okay. That Hamas had an important part,</p> <p>8 but not at the very last part.</p> <p>9 Q. Does that complete your correction of that</p> <p>10 item?</p> <p>11 A. With respect to this particular point, yes.</p> <p>12 Q. What is the other correction?</p> <p>13 Well, I'm sorry. Go back, please, to the one</p> <p>14 you just referred to at page 254.</p> <p>15 Are you saying that Hamas was not part of</p> <p>16 executing that attack?</p> <p>17 MR. UNGAR: Objection to the extent it</p> <p>18 mischaracterizes --</p> <p>19 (Brief comment in Hebrew by the witness.)</p> <p>20 MR. UNGAR: Mr. Shaked, please. I know it's</p> <p>21 an unusual setting today. But give me a chance to make</p> <p>22 objections. Okay?</p> <p>23 Objection to the extent it mischaracterizes</p> <p>24 testimony.</p> <p>25 THE WITNESS: (Translated.) Maybe I wasn't</p>
Page 19	Page 21
<p>1 THE WITNESS: To the best of my recollection,</p> <p>2 no.</p> <p>3 Q. BY MR. SALPETER: Has it come to your</p> <p>4 attention that there are any mistakes or omissions</p> <p>5 in your report, Exhibit 1?</p> <p>6 A. Indeed, in my second reading of the report,</p> <p>7 I came across two mistakes that I will be happy to</p> <p>8 rectify.</p> <p>9 Q. Do you know what they are now? Can you point</p> <p>10 to them now?</p> <p>11 A. I'd be happy to.</p> <p>12 Q. Please do so.</p> <p>13 A. (Examining.) (In English.) Yes, the first</p> <p>14 one is on page 254.</p> <p>15 Q. (Not translated.) Yes, sir.</p> <p>16 A. I'm sorry. The first mistake is on page 254.</p> <p>17 It relates to the terror attack on bus line 19.</p> <p>18 Q. Can you just say where on the page?</p> <p>19 A. (In English.) (Reading.)</p> <p>20 "It seems that Hamas was...dominant entity."</p> <p>21 (Translated.) It says: It seems like Hamas</p> <p>22 was a dominant entity --</p> <p>23 Q. Okay.</p> <p>24 A. (Translated.) -- in the last part of the</p> <p>25 operation.</p>	<p>1 understood correctly. Perhaps I wasn't translate --</p> <p>2 (Brief comment in Hebrew by the witness.)</p> <p>3 THE INTERPRETER: I said: "Perhaps I wasn't</p> <p>4 understood correctly."</p> <p>5 THE WITNESS: Perhaps I wasn't translated</p> <p>6 correctly. But -- or the words I said were not</p> <p>7 translated correctly.</p> <p>8 But Hamas -- what I said is that the Hamas</p> <p>9 had a major part in these terror attacks -- in this</p> <p>10 attack, but it did not have a central part in the time</p> <p>11 of the execution of the attack or during the last part</p> <p>12 of the attack --</p> <p>13 (In English.) "Stage."</p> <p>14 (Translated.) -- the last stage of the</p> <p>15 attack.</p> <p>16 Q. BY MR. SALPETER: Okay. What is the other</p> <p>17 correction?</p> <p>18 A. With your permission, I'll find it.</p> <p>19 Q. (Not translated.) Sure. Please.</p> <p>20 A. (Examining.) (Translated.) I just need to</p> <p>21 go over --</p> <p>22 (In English.) Yeah. The second mistake --</p> <p>23 I found it, I'm sorry it took me a lot of time --</p> <p>24 started on -- even also on page 252. And it said but</p> <p>25 even with -- that Hamas publicly assumed responsibility</p>

6 (Pages 18 to 21)

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**EXHIBIT 151 to Declaration of Joel Israel**

*TZVI WEISS, et al. VS.  
NATIONAL WESTMINSTER BANK, PLC*

---

*MATTHEW LEVITT  
June 2, 2011*

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*Original File 96667.TXT  
Min-U-Script® with Word Index*

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 2 EASTERN DISTRICT OF NEW YORK  
 3 -----x  
 4 TZVI WEISS, et al.,  
 5 Plaintiffs,  
 6 -against-  
 7 NATIONAL WESTMINSTER BANK, PLC,  
 8 Defendants.  
 9 -----x  
 10 NATAN APPLEBAUM, et al.,  
 11 Plaintiffs,  
 12 -against-  
 13 NATIONAL WESTMINSTER BANK, PLC,  
 14 Defendants.  
 15 -----x  
 16 One Liberty Plaza  
 17 New York, New York  
 18 June 2, 2011  
 19 9:35 a.m.  
 20  
 21 Videotaped Deposition of  
 22 MATTHEW LEVITT, before Shari Cohen, a Notary  
 23 Public of the State of New York.  
 24  
 25 ELLEN GRAUER COURT REPORTING CO. LLC  
 126 East 56th Street, Fifth Floor  
 New York, New York 10022  
 212-750-6434  
 REF: 96667

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 21 Jenkins  
 22  
 23  
 24 (EXHIBITS TO BE PRODUCED)  
 25

<p style="text-align: right;">Page 5</p> <p>1     S T I P U L A T I O N S</p> <p>2</p> <p>3     IT IS HEREBY STIPULATED AND AGREED by</p> <p>4     and between the attorneys for the respective</p> <p>5     parties herein, that the filing, and sealing</p> <p>6     of the within deposition be waived.</p> <p>7     IT IS FURTHER STIPULATED AND AGREED</p> <p>8     that all objections, except as to the form of</p> <p>9     the question, shall be reserved to the time</p> <p>10    of the trial.</p> <p>11    IT IS FURTHER STIPULATED AND AGREED</p> <p>12    that the within deposition may be sworn to</p> <p>13    and signed before any officer authorized to</p> <p>14    administer an oath with the same force and</p> <p>15    effect as if signed and sworn to before the</p> <p>16    Court.</p> <p>17</p> <p>18</p> <p>19     -oOo-</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 7</p> <p>1     With me are my colleagues Brendan</p> <p>2     Gibbon, Jamie Rietema and our legal</p> <p>3     clerk Maxwell Kardon.</p> <p>4     MR. BONNER: Jim Bonner with</p> <p>5     Stone Bonner &amp; Rocco for the</p> <p>6     plaintiffs.</p> <p>7     THE VIDEOGRAPHER: Will the</p> <p>8     court reporter please swear in the</p> <p>9     witness.</p> <p>10    M A T T H E W   L E V I T T, called as a</p> <p>11    witness, having been duly sworn by the</p> <p>12    Notary Public, was examined and</p> <p>13    testified as follows:</p> <p>14</p> <p>15    EXAMINATION BY</p> <p>16    MR. LUFT:</p> <p>17    Q.   How are you, Dr. Levitt?</p> <p>18    A.   I'm well. Good morning. How</p> <p>19    are you?</p> <p>20    Q.   Good. We've met before,</p> <p>21    correct?</p> <p>22    A.   Correct.</p> <p>23    Q.   I took your deposition in the</p> <p>24    Credit Lyonnais matter?</p> <p>25    A.   It was a pleasure.</p>
<p style="text-align: right;">Page 6</p> <p>1     P R O C E E D I N G S</p> <p>2     THE VIDEOGRAPHER: This is tape</p> <p>3     one. We are now on the record. The</p> <p>4     time is 9:34 a.m. Today is Thursday,</p> <p>5     June 2, 2011. This is the opening of</p> <p>6     the deposition of Mr. Matthew Levitt</p> <p>7     in the matter of Tzvi Weiss, et al.</p> <p>8     verses National Westminster Bank, PLC</p> <p>9     and also in the matter of Natan</p> <p>10    Applebaum, et al. verses National</p> <p>11    Westminster Bank, PLC.</p> <p>12    This deposition is being held</p> <p>13    at the offices of Cleary Gottlieb</p> <p>14    Steen &amp; Hamilton located at 1 Liberty</p> <p>15    Plaza in New York, New York.</p> <p>16    Our court reporter today is</p> <p>17    Shari Cohen with Ellen Grauer Court</p> <p>18    Reporting. I'm the legal videographer</p> <p>19    Dan Macom also with Ellen Grauer Court</p> <p>20    Reporting.</p> <p>21    Will counsels please introduce</p> <p>22    themselves.</p> <p>23    MR. LUFT: Avram Luft of Cleary</p> <p>24    Gottlieb Steen &amp; Hamilton LLP on</p> <p>25    behalf of National Westminster Bank.</p>	<p style="text-align: right;">Page 8</p> <p>1     L E V I T T</p> <p>2     Q.   I'm glad you enjoyed it. I did</p> <p>3     too. The same ground rules that applied at</p> <p>4     that deposition apply at this and in the</p> <p>5     interest of time I won't bore you with them</p> <p>6     all over again unless you have any questions,</p> <p>7     but there are a couple of things I did want</p> <p>8     to highlight.</p> <p>9     By agreement between the</p> <p>10    plaintiffs and the defendant the parties have</p> <p>11    agreed that your prior deposition in the</p> <p>12    Credit Lyonnais matter will serve as also</p> <p>13    your testimony here today in the interest of</p> <p>14    not having to make you do it all over again.</p> <p>15    Do you understand that?</p> <p>16    A.   I do.</p> <p>17    MR. LUFT: Let's go off the</p> <p>18    record.</p> <p>19    THE VIDEOGRAPHER: We are now</p> <p>20    off the record. The time is 9:36</p> <p>21    a.m., June 2, 2011.</p> <p>22    (Recess taken.)</p> <p>23    THE VIDEOGRAPHER: We are now</p> <p>24    back on the record. The time is 9:37</p> <p>25    a.m., June 2, 2011.</p>

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1 LEVITT

2 Q. The money comes from let's take

3 Holy Land Foundation, they send it to

4 Interpal and now when you talk about

5 commingling, are you saying that at that

6 point Interpal takes money that was donated

7 for charity and sends some off to do the

8 charity that -- it sends some monies off to

9 charities, correct, and you are saying some

10 of the money goes for other things?

11 A. I don't know if that's the

12 case, but what I do know is that what

13 Interpal has been accused of is commingling

14 funds from multiple donors which may have

15 been raising funds, you might have been

16 raising funds for education and you might

17 have been raising funds for social welfare

18 and you for a hospital and the money gets

19 brought into Interpal and then Interpal will

20 then send it on and then when it eventually

21 reaches the ground in the West Bank there are

22 multiple additional levels through which the

23 money is disbursed.

24 Ultimately some of the money

25 may go to education or social welfare. Some

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1 LEVITT

2 will go to this social welfare, some will go

3 to that social welfare and some may go

4 towards either directly or indirectly

5 supporting militant activity.

6 Without question the monies

7 across those things whether it's social

8 welfare or military or political which are

9 the three kind of mega baskets that you would

10 put Hamas activity into, the money that comes

11 in supports the organization's overall

12 ability to build grassroot support and pay

13 for people's salaries and create the kind of

14 society and culture and indebtedness and

15 belonging that makes Hamas so effective and

16 in fact so lethal in terms of its ability to

17 have longevity as an organization.

18 Q. So going back to my example the

19 money now comes into Interpal, comes from

20 let's say Holy Land and two other sources and

21 Interpal makes a transfer to a charity in the

22 West Bank. This is money that's given to the

23 charity. At the charity, that money -- so

24 now you have the charity. Does this get to

25 the point where I said when the money is at

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1 LEVITT

2 the charity you said it was less likely that

3 money that goes to a charity that's supposed

4 to be for charity and given to a charity is

5 taken away from the charity and used for

6 military activity?

7 A. It's less common because the

8 beauty of the system is the ability to hide

9 or mask the transfer of funds to from what

10 would be a legitimate purpose, helping people

11 to an illegitimate purpose. In that sense

12 it's a classic money laundering scheme.

13 There are instances where monies that were

14 raised for purportedly charitable purposes

15 are then used or law enforcement believes

16 they were used in a particular attack, but

17 those are more rare.

18 Q. Thanks. Let's go back to what

19 we were talking about, but I appreciate the

20 clarification. Going back to Human Appeal

21 International?

22 A. This was 55.

23 Q. This is page 55 of your report.

24 You wrote a 1996 CIA report identifies HAI

25 Human Appeal International as having to act

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1 LEVITT

2 as a fundraiser for Hamas, right?

3 A. Yes.

4 Q. We noted the support for that

5 is in footnote 31 which includes a

6 declassified CIA document and a U.S. News and

7 World Reports article?

8 MR. BONNER: 311, not 31.

9 MR. LUFT: Correct, thank you,

10 Jim.

11 A. Yes.

12 Q. We had Exhibit 5 is it which

13 you told me was the declassified CIA report

14 and we were looking at the third page of it

15 which confusingly has a page 4 at the top?

16 A. Correct. It appears it was

17 faxed at some point.

18 Q. We are all on the same page,

19 right, the third page of the document?

20 A. Starts a/k/a the charitable

21 establishment of the two holy mosques?

22 Q. Correct. Halfway down the

23 page it says Human Appeal International, HAI,

24 right?

25 A. Yes.



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1 LEVITT  
2 again, but I do think that it is missing the  
3 point to argue that because, for example,  
4 some of these organizations predate the  
5 official founding of the terrorist wing or  
6 the group itself under the name Hamas or the  
7 terrorist wing under the name Qassan Brigade  
8 misses the point. Again, we had a long  
9 discussion last time about the fact that the  
10 same people running the same organizations  
11 were engaged in the very similar types of  
12 activities including military or terrorist  
13 operations before Hamas was founded as such  
14 under that name.

15 The senior Hamas officials have  
16 said this themselves Khalid Mishal, the  
17 current chief of Hamas based out of Syria at  
18 least for now has said this many times  
19 openly. We call ourselves many things and  
20 ultimately we chose Hamas.  
21 I would argue that this  
22 organization existed prior to its renaming  
23 itself Hamas. You could rename your law firm  
24 after this meeting and you could continue  
25 with every same client and everything, you

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1 LEVITT  
2 are basically the same entity and so I think  
3 that's just kind of a point of disagreement.  
4 Q. That's a point where Mr.  
5 Berman disagrees with you as well?  
6 A. Yes.  
7 Q. Let me just ask you one  
8 question with regard to that. The fact that  
9 you disagreed with Mr. Berman's criticisms of  
10 your work, did that cause you in any way to  
11 question any other of Mr. Berman's  
12 conclusions?

13 A. Welcome to social science.  
14 Actually he doesn't criticize my work so much  
15 as debates a point with me and to be fair  
16 this is a point that is debated. The vast  
17 majority of people come out on the side that  
18 I happen to come out on which is that there  
19 are groups that serve as fronts for Hamas,  
20 some of which have predated the founding of  
21 Hamas under the name and some of which were  
22 founded later.  
23 By the way, you know a group  
24 like the Mujama that we discuss in this  
25 report could have been founded and operating

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1 LEVITT  
2 with these guys under whatever name one day  
3 and then Hamas was founded under that name  
4 and it continued operating as Hamas the next  
5 day and theoretically though I don't think  
6 this is the case, but just for the theory  
7 perhaps then it was not engaging as a front  
8 and then subsequently did begin to engage as  
9 a front so the fact that it predated the  
10 founding of Hamas, it's another way that it  
11 misses the point, but the nature of social  
12 science is that you won't necessarily agree  
13 with 100 percent of what anybody says. That  
14 doesn't mean that some of the stuff that they  
15 -- some of the research that they do, some of  
16 the arguments they make are not compelling  
17 and I think that there are parts of the  
18 argument that are compelling and I'm not so  
19 proud an ego as to wash that under the table  
20 just because there are other areas where I  
21 disagree.

22 Look at me and Brian. There  
23 are a vast majority of things I think we  
24 agree on and a lot of work we are doing  
25 together right now we agree on. There are

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1 LEVITT  
2 issues where we disagree and that's okay.  
3 Q. Are there any other issues that  
4 you want to raise with regard to areas of  
5 Brian's report that you disagreed with?  
6 A. No, I'm done.

7 MR. LUFT: Then I am. Hold on.  
8 I am done as well. Thank you, Dr.  
9 Levitt for your time.

10 THE WITNESS: Thank you. I  
11 apologize for that one outburst.

12 MR. BONNER: We will read and  
13 sign, but we don't have any questions.  
14 Thank you.

15 THE VIDEOGRAPHER: This  
16 concludes today's deposition. We are  
17 now off the record. The time is 1:25  
18 p.m. Today is June 2, 2011.  
19 (Time noted: 1:25 p.m.)  
20  
21  
22  
23  
24  
25

**EXHIBIT 152 to Declaration of Joel Israel**

Page 1

1 UNITED STATES DISTRICT COURT  
 2 EASTERN DISTRICT OF NEW YORK  
 3 -----x  
 4 MOSES STRAUSS, et al.,  
 5 Plaintiffs,  
 6 -against-  
 7 CREDIT LYONNAIS, S.A.,  
 8 Defendants.  
 9 -----x  
 10 BERNICE WOLF, et al.,  
 11 Plaintiffs,  
 12 -against-  
 13 CREDIT LYONNAIS, S.A.,  
 14 Defendants.  
 15 -----x  
 16 One Liberty Plaza  
 17 New York, New York  
 18 September 1, 2010  
 19 9:27 a.m.  
 20 Videotaped Deposition of Expert  
 21 Witness, MATTHEW LEVITT, before Shari Cohen,  
 22 a Notary Public of the State of New York.  
 23 ELLEN GRAUER COURT REPORTING CO. LLC  
 24 126 East 56th Street, Fifth Floor  
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 26 212-750-6434  
 27 REF: 93800

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 22 Exhibit 11 Document 339  
 23  
 24  
 25 (EXHIBITS TO BE PRODUCED)

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1 LEVITT  
2 report?  
3 MR. LUFT: No, I'm just asking  
4 about his general methodology.  
5 MR. GLATTER: Objection to  
6 form.  
7 A. Can you ask one more time?  
8 Q. In considering in analyzing  
9 evidence, how significant do you find one  
10 piece of anecdotal evidence with regard to  
11 trying to form a larger opinion?  
12 MR. GLATTER: Objection as to  
13 form.  
14 A. I guess there's two ways to  
15 understand that question. One is one piece  
16 of anecdotal evidence in the absence of any  
17 other. The other is one piece of anecdotal  
18 evidence in the context of other pieces of  
19 evidence. To which are you referring?  
20 Q. Let's start with the former?  
21 A. In the absence?  
22 Q. Correct.  
23 A. If you have one piece of  
24 anecdotal evidence in the absence of any  
25 other information or evidence, then it might

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1 LEVITT  
2 make for a telling snippet. If you are  
3 writing a book that is, you know, to be  
4 published for trade and makes for story line,  
5 doesn't mean you cannot use it, you would not  
6 want to make it out to be more than it is,  
7 right, but in and of itself one discrete  
8 piece of evidence and if that's all you have  
9 is just that. The reality is there is a very  
10 large spectrum of course and the vast  
11 majority of time you are dealing neither with  
12 the sole piece of anecdotal evidence that is  
13 in a vacuum or with the abundance of  
14 completely verifiable data on the other and  
15 therefore it's a question of putting together  
16 pieces of evidence, patterns, seeing if  
17 individual pieces of anecdotal evidence make  
18 a pattern, putting them in the context of  
19 larger findings, etc. and that enables you to  
20 draw conclusions.  
21 Q. How many of the 12 entities  
22 have you visited with?  
23 A. I have not visited these 12.  
24 Q. Have you ever spoken to any  
25 members of the 12 entities?

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1 LEVITT  
2 A. No.  
3 Q. Have you ever tried to?  
4 A. No.  
5 Q. Have you ever spoken with any  
6 Hamas members who are not in jail?  
7 A. I make it a point not to for  
8 very, you laugh, but for a very specific  
9 reason and that is I'm a former government  
10 official.  
11 Q. I didn't laugh.  
12 A. For the record it was not you.  
13 There is a tendency and it's not just Hamas,  
14 but it includes Hamas to meet with former  
15 government officials who are when they meet  
16 in an academic or a private or a non-profit  
17 capacity and then say that they are having  
18 some type of back channel to government and I  
19 don't want to create that type of mistaken  
20 impression.  
21 Q. Are there other charitable  
22 entities other than the 12 in the territories  
23 that you have met with?  
24 A. I have met with some, not many.  
25 One in particular, one of the refugee camps

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1 LEVITT  
2 near Bethlehem and the name is escaping me,  
3 but for the purpose of this type of analysis  
4 where you are trying to figure out if illicit  
5 activity is in fact happening when you  
6 already have information suggesting that it  
7 is, it's kind of like asking if a person  
8 who's researching organized crime asks Al  
9 Capone are you a crime boss. I'm not  
10 expecting him to say yes. I'm not expecting  
11 him to tell me about his illicit activity and  
12 therefore it's often I find much more  
13 productive to meet with government officials,  
14 investigators, with regulators, with other  
15 experts and those are the people who are  
16 looking into this in ways that I can't so I  
17 spend a lot of time with the Palestinian  
18 ministries that oversee charity in the  
19 Palestinian territories, I visit with the  
20 Israelis of course, I talk to Americans and  
21 European officials about these things.  
22 Q. The reason you would not ask Al  
23 Capone is because you assume he would be  
24 bias, he would give an answer that's self  
25 serving, right?

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1 LEVITT  
 2 public?  
 3 A. No.  
 4 Q. Do you know who would have been  
 5 in a position to review it before it was made  
 6 public?  
 7 A. Review it for what, for  
 8 release?  
 9 Q. For any purpose who would have  
 10 had a chance to read this before it became  
 11 public?  
 12 A. Based on my experience in  
 13 government and in the FBI in particular I  
 14 know that government reports specifically,  
 15 well, government reports period, certainly  
 16 reports that go up to a senior level even  
 17 within the building, certainly those that  
 18 leave the building and certainly those that  
 19 leave the building and go to another agency  
 20 as this one does gets significant review. A  
 21 lot of good and a lot of bad could be said  
 22 about government bureaucracy, but I recall  
 23 lots of frustrated jokes that people had  
 24 about the difficulty of getting a memo  
 25 released because it had so many layers of

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1 LEVITT  
 2 review by the lawyers, by the substantive  
 3 analysts, by management, etc.  
 4 Q. This is all FBI internal when  
 5 you talk about the review?  
 6 A. Correct. Something like this I  
 7 would be shocked if it did not also get other  
 8 review by other parts of DOJ. FBI is part of  
 9 Department of Justice. It would have  
 10 received very, very significant internal to  
 11 the FBI and internal to government review.  
 12 Q. Were you involved in the  
 13 preparation of the Watson memorandum?  
 14 A. As mentioned earlier I'm not  
 15 allowed to say what I was or was not involved  
 16 in when I was working for the intelligence  
 17 community which is what I was doing when I  
 18 was at the FBI. I can tell you I was  
 19 involved in focusing on middle eastern  
 20 terrorist groups and their presence in the  
 21 United States.  
 22 Q. When you first received the  
 23 Watson memo, was there any information within  
 24 it that you eschewed as unreliable?  
 25 MR. GLATTER: Objection to

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1 LEVITT  
 2 form.  
 3 A. Unreliable, no, not at the  
 4 time. Though we discussed earlier there's  
 5 different types of information in there,  
 6 different types of -- which deserve different  
 7 types of recognition or acceptance.  
 8 Q. Since you first received it,  
 9 have you come to be of the opinion that any  
 10 information within the memo is unreliable?  
 11 A. Yes.  
 12 Q. What information is that?  
 13 A. There are several press  
 14 articles like a New York Times or whatever  
 15 quoted in the report and sometimes people  
 16 myself included will give some credence to a  
 17 press report beyond just the fact that it's a  
 18 press report if it's cited in a government  
 19 report meaning the working assumption is that  
 20 if the government didn't believe that to be  
 21 true, it wouldn't be in there. In the Watson  
 22 memo, there is one, I think it's one, USA  
 23 Today report one of the committees in Hebron  
 24 that's quoted.  
 25 Subsequently it turned out that

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1 LEVITT  
 2 this particular reporter was exposed for  
 3 lying and claiming to be in a place  
 4 observing something and was on the other side  
 5 of the world and made it up, maybe spoke to  
 6 people on the phone, maybe it's not all made  
 7 up, but completely discredited so obviously I  
 8 don't cite to that.  
 9 I believe that early on I had  
 10 written things that did include that article  
 11 or pieces from it. Of course once you find  
 12 out it's discredited, you don't.  
 13 Q. What have you done to  
 14 corroborate the rest of the information in  
 15 the report so that it does not fall prey to  
 16 the same type of inaccuracies?  
 17 MR. GLATTER: Objection as to  
 18 form and foundation.  
 19 A. Thankfully that type of  
 20 circumstance is extremely rare and I say  
 21 fortunately because in most cases an outsider  
 22 is not in a position to be able to  
 23 independently verify that a source said that  
 24 or whatever. I don't particularly feel the  
 25 need as an academic to verify if an article

**EXHIBIT 153 to Declaration of Joel Israel**

חוות דעת עד מומחה – כישורים ונסיון בתחום עליו נתבקשתי להעיד

1. שמי אריה דן שפיצן.
  2. שימשתי עד ה-1 ינואר 2009 כראש המחלקה לענייני פלסטינים וכיועץ לענייני פלסטינים של מתאם הפעולות בשטחים בתקן ובמעמד של אלוף משנה – כיום עוסק ביועץ בתחום המזרח התיכון בדגש על הזירה הפלסטינית לגופים ממסדיים, למכוני מחקר, לרבות למכונים אקדמאיים, ולגופים פרטיים<sup>1</sup>.
  3. בוגר החוגים להיסטוריה של ארצות האסלאם ולהיסטוריה של עם ישראל בהצטיינות באוניברסיטה העברית בירושלים 1976.
  4. בשנת 1976 הקמתי את מדור המחקר של היועץ לענייני ערבים בממשל הצבאי בגדה המערבית, לימים המנהל האזרחי ושמשתי כראש מדור המחקר במשך שנתיים. נבחרתי לתפקיד זה ע"י הפרופסור אמנון כהן וע"י פרופסור מנחם מילסון (שניהם שימשו בתפקיד היועץ לענייני ערבים בגדה המערבית בזה אחר זה באותה תקופה). על בסיס הישגיי בלימודים במסגרת החוגים להיסטוריה של ארצות האסלאם ולהיסטוריה של עם ישראל אותם סיימתי בהצטיינות. שימשתי כראש מדור המחקר עד 1978.
- בין השנים 1978 - 1981** שמשתי כאסיסטנט של הפרופ' מנחם מילסון מהחוג לשפה וספרות ערבית והעסקתי כחוקר – אסיסטנט במכון ואן ליר בירושלים שם עסקתי בסוגיות הנוגעות לשילוב האוכלוסיה הערבית בישראל בחברה ובמסד הישראלי. במקביל עסקתי בכתיבת עבודת מחקר מדעית (על בסיס מסמכי מקור בתורכית ובערבית המצויים בארכיון בית המשפטי השרעי של ירושלים) אודות כלכלת ירושלים במאה ה-18. – (כתוצר לוואי של מחקר זה פרסמתי מאמר מדעי בכתב העת קתדרה היוצא מטעם מכון בן צבי והעוסק בהקדשים יהודים בירושלים של סוף המאה ה-19)<sup>2</sup>.
- בין השנים 1981 - 1993** שמשתי כראש מדור המחקר של היועץ לענייני ערבים וכסגן היועץ (בפועל) בגדה המערבית ועסקתי במחקר חברתי כלכלי ופוליטי של הפלסטינים תוך התמקדות בזרמים הפוליטיים והחברתיים השונים ובהלכי הרוח באוכלוסיה. במסגרת תפקידי זה כתבתי בעצמי והנחתי את הכפופים לי בכתיבת מאות עבודות מחקר, ניירות מטה, מאמרים, לקטים וסקירות ייסוד בנושאים האזרחיים אשר שמשו את מערכת קבלת ההחלטות במשרד הביטחון, בתיאום הפעולות בשטחים ובדרגי 'מקבלי ההחלטות' ברמת השטח בפיקוד המרכז. עבודות מתקופה זו כמו גם מאות עבודות שנכתבו מאוחר יותר, רובן ככולן הינן בעלות סיווג בטחוני ועל כן הופצו בתפוצות פנימיות לדרג מקבלי ההחלטות ולדרגים מקצועיים אך לא ניתן לפרסמן ברבים.
- בשנים 1993 - 1996** צורפתי לצוות המשא ומתן על הסכמי אוסלו ושמשתי חבר בצוותים שנשאו ונתנו על העברת הסמכויות האזרחיות מהמנהל האזרחי לרשות הפלסטינית.
- בשנים 1996 - 1998** שמשתי כמרכז פעילות התאום והקישור האזרחית בגדה המערבית מול הרשות הפלסטינית – המשרד הפלסטיני לעניינים אזרחיים ומשרדים אזרחיים נוספים.
- בשנים 1998-2000** מונית ע"י הרמטכ"ל דאז, שאול מופז, ושר הביטחון, יצחק מרדכי, לראש המחלקה לעניינים פלסטינים בגדה המערבית במעמד ובתקן של אלוף משנה. כבכיר היועצים במערך הייעוץ

<sup>1</sup> מצ"ב מכתבים מטעם: א. מרכז המידע למודיעין ולטרור; ב. מרכז תמי שטינמץ למחקרי שלום אוניברסיטת ת"א, מכון ממר"י ירושלים המראים על היזדקקות גופים אלו ליועצי המקצועי.

<sup>2</sup> שפיצן אריה, "האישיות המשפטית" והקדשים יהודיים בירושלים של סוף המאה התשע עשרה, קתדרה – חוב' 19, ניסן תשמ"א – ע"מ 73-82.

שמשתי כל אותה תקופה כיועץ לענייני ערבים של מתאם הפעולות עצמו, אלוף (מיל) יעקב אור והייתי כפוף לו בפועל.

**בשנים 2001 - 2009** מונית לראש המחלקה לעניינים פלסטיניים של מתאם הפעולות בשטחים, כיועץ לענייני פלסטיניים של המתאם וראש מערך הייעוץ לענייני פלסטיניים בגדה המערבית ובעזה ובתוקף תפקיד זה הייתי למנחה מקצועי ולאוטוריטה עליונה בכל הנוגע לתמונת המצב האזרחית חברתית כלכלית בזירה הפלסטינית בגדמ"ע ובעזה. כראש המערך שהינו מערך מידע הייתי אחראי בשנים אלה לכתיבת מאות סקירות ועבודות מחקר אודות תמונת המצב האזרחית, הזרמים הפוליטיים השונים ודרכי פעולתם, הזרמים החברתיים, הלכי הרוח המצב הכלכלי והשפעתו ועוד נושאים אזרחיים מגוונים הנוגעים לתחום הפלסטיני האזרחי ומשיקים כמובן גם לפעילות הצבאית לרבות פעילות אירגוני הטרור (חמא"ס, ג'האד אסלאמי, חזית עממית, ג'האד עולמי ועוד) – בין היתר הייתי אחראי מדי שנה לכתיבה ולעדכון סקירת ייסוד הנוגעת לתשתית האזרחית של החמא"ס – הדעה.

### תקשורת

בתוקף הידע היחודי והיותי אוטוריטה בתחום הפלסטיני נתתי עשרות שיחות רקע לבכירי העיתונאים הישראליים העוסקים בתחום הפלסטיני ובתחום הצבאי (לפחות שיחה עד שתיים בשבוע במהלך עשר השנים האחרונות). וכן ראיונות פרשנות רבים לתקשורת הישראלית<sup>3</sup> אשר רואה בי כתובת ברת סמך בכל הנוגע לתחום הפלסטיני. בנוסף, ראיינתי פעמים רבות בתחנות טלוויזיה בערבית והענקתי שיחות רקע ושיחות עומק גם לכתבים זרים של העיתונות העולמית בארץ.

### ייעוץ בתחום האקדמי

צוין לעיל הייעוץ השוטף הניתן למספר מכוני מחקר פרטיים ואקדמיים בארץ לאורך השנים ועד היום. כמו כן שותפתי כמרצה וחבר בפגלים בלא מעט סימפוזיונים, כנסים, ימי עיון ומפגשים מדעיים שנערכו מטעם אוניברסיטאות ומכוני מחקר בארץ<sup>4</sup>.

### הופעה כעד מומחה בבתי משפט בישראל

הופעתי עשרות פעמים בבתי משפט בישראל (צבאיים ואזרחיים) לרבות הופעות ו/או מתן תצהירים לבית המשפט העליון במגוון נושאים הנוגעים לתחום הפלסטיני. ראוייה לציון הופעת עד מומחה מרכזי בתיק "התנועה האסלאמית" בישראל לפני בית המשפט המחוזי בחיפה בה נתתי חוות דעת מקיפה אודות העברות כספים לתשתיות אזרחיות ואגודות צדקה של החמא"ס מטעם קרנות קיצוניות בחו"ל, קרן אלאקצא, אינטרפאל וקואליציית הצדקה<sup>5</sup> עדות אשר הביאה לפי הערכת פרקליטות מחוז צפון להודאת הנאשמים באשמות.

<sup>3</sup> מקצת הראיונות לקול ישראל, לגלי צה"ל ולטלוויזיה הישראלית רצופים בנספח.  
<sup>4</sup> מצב לדוגמה הזמנה מטעם אוניברסיטת תל-אביב ליום עיון בסוגיית "ילדים, מלחמה וטלוויזיה" בו הרצתי בסוגיית "ניצול ילדים במלחמה – היבטים תקשורתיים".  
<sup>5</sup> ראה מכתב פרקליטות צפון בנושא וכן מכתב ר' מרחב צפון שב"כ



### ייעוץ לגופים מוסדיים

בתוקף תפקידי בעת שרותי וכיום כאזרח פרטי ייעצתי ועודני נותן ייעוץ בכל הקשור לתמונת המצב האזרחית-פוליטית-חברתית-כלכלית בשטחי הרש"פ ובזירה הפלסטינית למגוון גורמים כגון: תאום פעולות בשטחים, חטיבת מחקר של אגף המודיעין, המועצה לביטחון לאומי, שירות הביטחון הכללי, המוסד ועוד.<sup>6</sup>

### סיכום

בתוקף נסיוני הרב הידע שצברתי במהלך שלשים שנות עיסוקי בנושא יכולות הניתוח, הכתיבה והמומחיות רבת השנים, שהפכה אותי לאוטוריטה בתחום הפלסטיני, אני מצוי היטב בנעשה בשטחי הרשות הפלסטינית ובקרב הפלסטינים בשטחים מהבחינה החברתית כלכלית ופוליטית ובין היתר מכיר היטב את דרכי פעילותו של ארגון החמא"ס ובמיוחד את דרכי פעולתה של התשתית האזרחית של תנועה זו אשר נחקרה על ידי לאורך השנים.

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<sup>6</sup> רצ"ב מכתבו של ראש האגף המדיני בטחוני במשרד הביטחון האלוף (מיל) גלעד בכל הנוגע למוערבות בייעוץ המוסדי.

*Translated from the Hebrew  
Rina Ne'eman Hebrew Language Services, Inc.*

**Expert Witness Opinion – Qualifications and Experience in the Field  
in Which I Have Been Asked to Testify**

1. My name is Arie Dan Spitz.
2. Up until January 1, 2009, I served as head of the Palestinian Affairs Department and as Advisor on Palestinian Affairs to the Coordinator of Israeli Government Activities in the Territories, with the position and status of a Colonel. I currently provide consultancy services on the subject of the Middle East, with emphasis on the Palestinian arena, to institutional bodies, research institutes, including academic institutes, and private organizations<sup>1</sup>.
3. I graduated, with distinction, from the departments of History of the Islamic Lands and History of the Jewish People at the Hebrew University of Jerusalem in 1976.
4. **In 1976**, I established the Research Section of the Advisor for Arab Affairs in the Military Government in the West Bank, later the Civil Administration, and served as head of the Research Section for two years. I was chosen for this task by Professor Amnon Cohen and by Professor Menahem Milson (both of whom served, consecutively, in the position of Advisor for Arab Affairs in the West Bank at that time). My selection was on the basis of my achievements in my studies in the departments of History of the Islamic Lands and History of the Jewish People, which I completed with distinction. I served as head of the Research Section till 1978.

**In the years 1978-1981**, I served as an assistant to Professor Menahem Milson in the Department of Arabic Language and Literature. I was also employed as a research assistant at the Van Leer Institute in Jerusalem, where I was involved in issues dealing with the integration of the Arab population in Israeli society and in the Israeli establishment. In parallel, I was involved in writing an academic research paper (based on source documents in Turkish and Arabic found in the archives of the Jerusalem Sharia Court) with respect to the economy of Jerusalem in the 18<sup>th</sup> century. (As a side effect of this research, I published an academic paper in Cathedra, a journal published by the Ben-Zvi Institute; the paper discussed Jewish charitable trusts – *hekdeshim* – in Jerusalem in the late 19<sup>th</sup> century).<sup>2</sup>

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<sup>1</sup> Attached are letters from: a. Intelligence and Terrorism Information Center; b. Tami Steinmetz Center for Peace Research, Tel Aviv University; c. Middle East Media Research Institute (MEMRI), Jerusalem – indicating the use made by these organizations of my professional consultancy services.

<sup>2</sup> Spitz, Arie, 'Jewish Charitable Trusts in Late Nineteenth Century Jerusalem: Legal Considerations,' Cathedra 19, Nissan 5741 [=April 1981], pp. 73-82.

*Translated from the Hebrew  
Rina Ne'eman Hebrew Language Services, Inc.*

**From 1981 to 1993**, I served as head of the Research Section of the Advisor for Arab Affairs, and as acting Deputy Advisor in the West Bank. I dealt with social, economic and political research into the Palestinians, focusing on various political and social streams and trends within the population. In this position I wrote, or directed those under me in the writing of, hundreds of research papers, background papers, articles, compilations and basic overviews on civilian issues, which served in the decision making process in the Defense Ministry, the office of the Coordinator of Israeli Government Activities in the Territories, and at the “decision making” levels in the field in Central Command. The work carried out during this period, like hundreds of papers written later, are almost all classified, and so were distributed internally at the decision making and professional levels, but cannot be widely published.

**In 1993-1996** I was attached to the Oslo Accords negotiating team, and served as a member of the teams negotiating the transfer of civilian powers from the Civil Administration to the Palestinian Authority.

**In the years 1996-1998**, I served as coordinator of Civilian Coordination and Liaison in the West Bank, working with the Palestinian Authority – Palestinian Ministry for Civilian Affairs and other civilian departments.

**In the period 1998-2000**, I was appointed by the then Chief of Staff, Shaul Mofaz, and Defense Minister, Yitzchak Mordechai, as head of the Palestinian Affairs Department in the West Bank, with the status and position of a Colonel. As the senior advisor in the advisory framework, I served throughout that period as personal Advisor on Arab Affairs to the Coordinator of Activities, Major General (Res.) Yaakov Or, and was in fact subordinate to him.

**In 2001-2009**, I was appointed as head of Palestinian Affairs Department of the Coordinator of Israeli Government Activities in the Territories, as Advisor on Palestinian Affairs to the Coordinator, and as head of the advisory unit on Palestinian affairs in the West Bank and Gaza. By virtue of this position, I was the professional mentor and supreme authority with respect to anything connected with the civilian, social and economic situation in the Palestinian arena in the West Bank and Gaza.

As head of this unit, which was an information framework, I was responsible in those years for the writing of hundreds of surveys and research papers with respect to the civilian situation, the various political streams and their modes of operation, the social streams, the mood in the area, the economic situation and its influence, and various other topics related to the civilian Palestinian sphere, but which also touched on military activity, including the activities of terror organizations (Hamas, Islamic Jihad, Popular Front, World Jihad, and

*Translated from the Hebrew  
Rina Ne'eman Hebrew Language Services, Inc.*

others) – *inter alia*, I was responsible each year for writing and updating the basic overview relating to the civilian infrastructure of the Hamas – the *da'wa*.

### **Media**

By virtue of my special knowledge and my being an authority on the Palestinian sphere, I have given dozens of background talks to senior Israeli journalists dealing with Palestinian and military affairs (at least one or two such talks per week over the past ten years), as well as many commentary interviews to the Israeli media,<sup>3</sup> which saw me as the authoritative point of reference with respect to all aspects of the Palestinian sphere. In addition, I have been interviewed numerous times on Arabic-language television stations, and have also given background and in-depth talks to foreign journalists representing the world press in Israel.

### **Academic Consultation**

I have mentioned above the ongoing consultation provided over the years, up to the present time, to a number of private and academic research institutes in Israel. In addition, I have taken part as a lecturer and panelist in numerous symposia, conferences, seminars and academic meetings arranged by universities and research institutes in Israel.<sup>4</sup>

### **Appearance as an Expert Witness in Israeli Courts**

I have appeared dozens of times in Israeli courts (military and civilian), including appearances and/or the provision of affidavits to the Supreme Court, on a range of topics touching on the Palestinian sphere. Of particular note is my appearance as a key expert witness in the Islamic Movement case in Israel, before the District Court in Haifa, in which I provided a comprehensive opinion with respect to the transfer of funds to the civilian infrastructure and charitable societies of Hamas on behalf of radical foundations abroad – the Al Aqsa Foundation, Interpal and the Union of Good<sup>5</sup> – testimony which, in the view of the State Attorney's Office, Northern District, led to the accused pleading guilty.

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<sup>3</sup> Some of the interviews for Kol Yisrael, Galei Zahal and Israel Television are attached in the Appendix.

<sup>4</sup> Attached, for example, is an invitation from Tel Aviv University to a one-day seminar on the topic of "Children, War and Television," at which I lectured on the subject "Exploitation of Children in War – Media Aspects."

<sup>5</sup> See the letter from the State Attorney's Office, Northern District, on the topic, and the letter from the head of the Northern District, Israel Security Agency.

*Translated from the Hebrew  
Rina Ne'eman Hebrew Language Services, Inc.*

### **Consultation to Institutional Organizations**

By virtue of my position during my governmental service, and today as a private citizen, I provided, and still provide, consultation in relation to the civil, political, social, and economic picture in the Palestinian Authority territories and the Palestinian arena, to a variety of organizations, such as: the Coordinator of Israeli Government Activities in the Territories, the Research Division of Intelligence Branch of the Israel Defense Forces, the National Security Council, the Israel Security Agency, the Mossad and others.<sup>6</sup>

### **Summary**

By virtue of my extensive experience, the knowledge that I have acquired over the course of thirty years of dealing with the topic, the analytical and writing abilities and expertise of many years, which have made me the authority in the Palestinian sphere, I am well informed on what is taking place in the territories of the Palestinian Authority and among the Palestinians in the Territories, from the social, economic and political point of view. Inter alia, I am very familiar with the methods of operation of the Hamas organization, and particularly the methods of operation of the movement's civilian infrastructure, which I have investigated over the years.

---

<sup>6</sup> Attached is a letter from the Director of Policy and Political-Military Affairs in the Defense Ministry, Major-General (Res.) Gilad, in regard to involvement in institutional consultations.

**EXHIBIT 154 to Declaration of Joel Israel**

*MOSES STRAUSS, et al. VS.  
CREDIT LYONNAIS, S.A.*

---

*ARIEH SPITZEN  
August 11, 2010*

---

***Ellen Grauer***  
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*Min-U-Script® with Word Index*

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1 UNITED STATES DISTRICT COURT  
 2 EASTERN DISTRICT OF NEW YORK  
 3 -----X  
 4 MOSES STRAUSS, et al.,  
 5 - against - Plaintiffs,  
 6 CREDIT LYONNAIS, S.A.,  
 7 Defendants.  
 8 CASE NO.: 06-702 (DGT) (MDG)  
 9 -----X  
 10 BERNICE WOLF, et al.,  
 11 - against - Plaintiffs,  
 12 CREDIT LYONNAIS, S.A.,  
 13 Defendants.  
 14 CASE NO.: 07-914 (DGT) (MDG)  
 15 -----X  
 16 One Liberty Plaza  
 17 New York, New York  
 18 August 11, 2010  
 19 10:09 a.m.  
 20 VIDEOTAPED DEPOSITION of Expert  
 21 Witness, ARIEH SPITZEN, before Melissa Gilmore,  
 22 a Notary Public of the State of New York.  
 23 ELLEN GRAUER COURT REPORTING CO. LLC  
 24 126 East 56th Street, Fifth Floor  
 25 New York, New York 10022  
 212-750-6434  
 REF: 93798

Page 2

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Page 3

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 13  
 14  
 15 ALSO PRESENT:  
 16 RUTH KOHN, Official Hebrew Interpreter  
 17 MEIR TURNER, Check Interpreter  
 18 CLARA M. BEYLER, Check Interpreter  
 19 DAN MACOM, Videographer  
 20  
 21  
 22  
 23  
 24  
 25

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1 ----- I N D E X -----  
 2 WITNESS EXAMINATION BY PAGE  
 3 ARIEH SPITZEN MR. LUFT 8  
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 13 ----- E X H I B I T S -----  
 14 SPITZEN DESCRIPTION FOR I.D.  
 15 Exhibit 1 Hebrew Version of Expert 21  
 16 Report  
 17 Exhibit 2 English Version of Expert 22  
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 20  
 21 (EXHIBITS TO BE PRODUCED)  
 22  
 23  
 24  
 25



<p style="text-align: right;">Page 5</p> <p>1 FEDERAL STIPULATIONS</p> <p>2</p> <p>3 IT IS STIPULATED AND AGREED by</p> <p>4 and between the attorneys for the respective</p> <p>5 parties herein, that the filing, sealing,</p> <p>6 and certification of the within deposition</p> <p>7 be waived.</p> <p>8 IT IS FURTHER STIPULATED AND</p> <p>9 AGREED that all objections, except as to the</p> <p>10 form of the question, shall be reserved to</p> <p>11 the time of the trial.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that the within deposition may be</p> <p>14 sworn to and signed before any officer</p> <p>15 authorized to administer an oath, with the</p> <p>16 same force and effect as if signed to before</p> <p>17 the Court.</p> <p>18</p> <p>19</p> <p>20 - oOo -</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 7</p> <p>1 behalf of the Strauss plaintiffs.</p> <p>2 MS. RONAN: Patricia E. Ronan, Osen</p> <p>3 LLC, on behalf of the Strauss plaintiffs.</p> <p>4 MS. RIETEMA: Jamie Rietema, Cleary</p> <p>5 Gottlieb, on behalf of Credit Lyonnais.</p> <p>6 MR. TURNER: Meir Turner,</p> <p>7 interpreter.</p> <p>8 MR. GIBBON: Brendan Gibbon, on</p> <p>9 behalf of Credit Lyonnais, with Cleary</p> <p>10 Gottlieb.</p> <p>11 MR. LUFT: Avram Luft, of Cleary</p> <p>12 Gottlieb Steen &amp; Hamilton LLP, on behalf</p> <p>13 of Credit Lyonnais.</p> <p>14 THE INTERPRETER: Ruth Kohn, Hebrew</p> <p>15 interpreter.</p> <p>16 THE VIDEOGRAPHER: Will our court</p> <p>17 reporter please swear in the witness?</p> <p>18 R U T H K O H N, called as the</p> <p>19 official interpreter in this action, was</p> <p>20 duly sworn to faithfully translate the</p> <p>21 questions to the witness from English to</p> <p>22 Hebrew, and the answers from Hebrew to</p> <p>23 English.</p> <p>24 A R I E H S P I T Z E N, called as a</p> <p>25 witness, having been duly affirmed by a</p>
<p style="text-align: right;">Page 6</p> <p>1 P R O C E E D I N G S</p> <p>2 * * * *</p> <p>3 THE VIDEOGRAPHER: This is tape one.</p> <p>4 We are now on the record. The time is</p> <p>5 10:09 a.m. Today is Wednesday, August 11,</p> <p>6 2010. This is the opening of the</p> <p>7 deposition of Mr. Arie Spizen in the</p> <p>8 matters of Moses Strauss, et al. versus</p> <p>9 Credit Lyonnais, S.A. and also Wolf, et</p> <p>10 al. versus Credit Lyonnais, S.A.</p> <p>11 This deposition is being held at the</p> <p>12 offices of Cleary Gottlieb Steen &amp;</p> <p>13 Hamilton, located at One Liberty Plaza,</p> <p>14 New York, New York. Our court reporter</p> <p>15 today is Ms. Melissa Gilmore with Ellen</p> <p>16 Grauer Court Reporting. I'm the legal</p> <p>17 videographer, Dan Macom, also with Ellen</p> <p>18 Grauer Court Reporting.</p> <p>19 Will counsels please introduce</p> <p>20 themselves.</p> <p>21 MR. GLATTER: Joshua Glatter, Osen</p> <p>22 LLC, on behalf of the Strauss plaintiffs.</p> <p>23 MS. BEYLER: Clara Beyler, special</p> <p>24 translator on behalf of the plaintiffs.</p> <p>25 MR. UNGAR: Ari Ungar, Osen LLC, on</p>	<p style="text-align: right;">Page 8</p> <p>1 SPITZEN</p> <p>2 Notary Public, was examined and testified</p> <p>3 as follows:</p> <p>4 EXAMINATION BY</p> <p>5 MR. LUFT:</p> <p>6 Q. Mr. Spizen, good morning.</p> <p>7 A. Good morning.</p> <p>8 Q. My name is Avi Luft. I represent</p> <p>9 Credit Lyonnais in this matter.</p> <p>10 Are you represented here today?</p> <p>11 A. No, I'm not represented here.</p> <p>12 MR. LUFT: Is that right,</p> <p>13 Mr. Glatter?</p> <p>14 MR. GLATTER: That's correct. The</p> <p>15 witness is here as an expert witness. The</p> <p>16 witness is not my client.</p> <p>17 MR. LUFT: So you are not</p> <p>18 representing him.</p> <p>19 MR. GLATTER: I will be defending</p> <p>20 his deposition today.</p> <p>21 MR. LUFT: Okay.</p> <p>22 Q. Mr. Spizen, have you ever been</p> <p>23 deposed before?</p> <p>24 A. Not this way.</p> <p>25 Q. Have you been deposed in another</p>

<p style="text-align: right;">Page 69</p> <p>1 SPITZEN</p> <p>2 a serious problem with his son --</p> <p>3 MR. TURNER: Personal.</p> <p>4 THE WITNESS: -- personal problem</p> <p>5 with his son, a health problem. And,</p> <p>6 therefore, I called him once or twice to</p> <p>7 find out how his son was and how I could</p> <p>8 help. Okay? That's it.</p> <p>9 The third matter -- no, I'm sorry</p> <p>10 the fourth matter, I would like to refer</p> <p>11 you to page 81, I think it's also page 81</p> <p>12 in the English version, and that's</p> <p>13 regarding Mr. Luft's question whether I</p> <p>14 would like to correct anything in my</p> <p>15 expert opinion. On page 81 under the</p> <p>16 heading -- under the heading identifying</p> <p>17 with the Hamas --</p> <p>18 MR. TURNER: Identification.</p> <p>19 A. -- "Identification with Hamas" --</p> <p>20 MR. LUFT: That starts on page 80 of</p> <p>21 Exhibit 2, which is the English.</p> <p>22 THE WITNESS: Okay. I'm sorry. (In</p> <p>23 English.)</p> <p>24 MR. LUFT: It's fine. I just want</p> <p>25 the record to be clear.</p>	<p style="text-align: right;">Page 71</p> <p>1 SPITZEN</p> <p>2 referring to says, "The symbolic nature of the</p> <p>3 relationship between ICSH and Hamas was</p> <p>4 unequivocally expressed in a letter dated 1991</p> <p>5 which was addressed to the CEO of the Holy Land</p> <p>6 Foundation, Shukri Abu Baker, and was seized by</p> <p>7 the FBI and presented as evidence in the</p> <p>8 criminal trial."</p> <p>9 So you are saying the correction you</p> <p>10 would like to make is not that this was a</p> <p>11 letter that was found by IDF troops?</p> <p>12 A. Right.</p> <p>13 Q. Rather, you say, it was a finding</p> <p>14 from the Holy Land Foundation litigation?</p> <p>15 A. Correct.</p> <p>16 Q. Now, when you say it was a finding,</p> <p>17 what do you mean by that?</p> <p>18 A. An exhibit, a court exhibit.</p> <p>19 Q. So it was not something that the</p> <p>20 court found as a matter of law, correct?</p> <p>21 MR. GLATTER: Objection, form? I</p> <p>22 guess you are asking the definition of</p> <p>23 finding.</p> <p>24 MR. LUFT: Well, he said it was a</p> <p>25 finding. Now, he is saying it's an</p>
<p style="text-align: right;">Page 70</p> <p>1 SPITZEN</p> <p>2 MR. GLATTER: Yes, yes, in the</p> <p>3 English, it's agreed.</p> <p>4 THE WITNESS: Under the heading,</p> <p>5 "Identification with Hamas," I indicate</p> <p>6 overwhelming evidence regarding the</p> <p>7 relationships, and you can read it from</p> <p>8 the English.</p> <p>9 In searches carried out by the IDF</p> <p>10 troops, these findings were uncovered.</p> <p>11 That's in section E. The letter I'm</p> <p>12 referring to is not in this -- is not</p> <p>13 found or is not located in this</p> <p>14 association. It's a finding from the Holy</p> <p>15 Land Foundation litigation. It found its</p> <p>16 way here by mistake. It also identifies</p> <p>17 with the Hamas, but it's not found on the</p> <p>18 premises of this association.</p> <p>19 BY MR. LUFT:</p> <p>20 Q. Is that it?</p> <p>21 A. Yes.</p> <p>22 Q. Let me just first clarify the last</p> <p>23 point while we still have all the pages in</p> <p>24 front of us.</p> <p>25 I believe paragraph E that you are</p>	<p style="text-align: right;">Page 72</p> <p>1 SPITZEN</p> <p>2 exhibit at the Holy Land Foundation. I'm</p> <p>3 just trying to understand.</p> <p>4 A. Yes, there is a reference, if you</p> <p>5 look at the 455, the footnote number 455, it</p> <p>6 shows you exactly where it was taken from.</p> <p>7 Q. But do you know if this is a finding</p> <p>8 of fact that the court made or, rather, you are</p> <p>9 just saying that what you were referring to</p> <p>10 when you wrote this paragraph was that there</p> <p>11 was some exhibit in the Holy Land Foundation?</p> <p>12 MR. GLATTER: Objection to form.</p> <p>13 Please translate.</p> <p>14 A. This was an exhibit shown to the</p> <p>15 court. I don't know what was the court's</p> <p>16 ruling in this case.</p> <p>17 Q. So let me now go back to some of the</p> <p>18 other things, just so I understand the</p> <p>19 clarifications.</p> <p>20 You said you have been alerted that</p> <p>21 you may be called to testify in the Arab Bank</p> <p>22 litigation?</p> <p>23 A. Yes.</p> <p>24 Q. The plaintiffs have alerted you to</p> <p>25 this fact?</p>

**EXHIBIT 155 to Declaration of Joel Israel**

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ARIEH DAN SPITZEN - 7/20/2011

Page 1

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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COURTNEY LINDE, et al.,

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

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:  
:  
:  
:  
:  
: Case No.:  
: CV 04 2799 (NG) (VVP)

---

PHILIP LITTLE, et al.,

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

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:  
:  
:  
:  
:  
: Case No.:  
: CV 04 5449 (NG) (VVP)

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ORAN ALMOG, et al.,

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

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:  
:  
:  
:  
:  
: Case No.:  
: CV 04 5564 (NG) (VVP)

VIDEOTAPED DEPOSITION OF ARIEH DAN SPITZEN  
(VOLUME I)

Tel Aviv, Israel  
July 20, 2011

Reported by: BRENDA MATZOV, CA CSR 9243

HIGHLY CONFIDENTIAL  
ARIEH DAN SPITZEN - 7/20/2011

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1	ROBERT L. COULTER, SR., FOR	:
	THE ESTATE OF JANIS RUTH	:
2	COULTER, et al.,	:
		:
3	Plaintiffs,	:
		:
4	-against-	: Case No.:
		: CV 05 365 (NG) (VVP)
5	ARAB BANK, PLC,	:
		:
6	Defendant.	:
	_____	:
7		:
	GILA AFRIAT-KURTZER, et al.,	:
8		:
	Plaintiffs,	:
9		:
	-against-	: Case No.:
10		: CV 05 388 (NG) (VVP)
	ARAB BANK, PLC,	:
11		:
	Defendant.	:
12	_____	:
		:
13	MICHAEL BENNETT, et al.,	:
		:
14	Plaintiffs,	:
		:
15	-against-	: Case No.:
		: CV 05 3183 (NG) (VVP)
16	ARAB BANK, PLC,	:
		:
17	Defendant.	:
	_____	:
18		:
	ARNOLD ROTH, et al.,	:
19		:
	Plaintiffs,	:
20		:
	-against-	: Case No.:
21		: CV 05 3738 (NG) (VVP)
	ARAB BANK, PLC,	:
22		:
	Defendant.	:
23	_____	:
24		:
25		:

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ARIEH DAN SPITZEN - 7/20/2011

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1	STEWART WEISS, et al.,	:	
		:	
2	Plaintiffs,	:	
		:	
3	-against-	:	Case No.:
		:	CV 06 1623 (NG) (VVP)
4	ARAB BANK, PLC,	:	
		:	
5	Defendant.	:	
	_____	:	
6		:	
	JOSEPH JESNER, et al.,	:	
7		:	
	Plaintiffs,	:	
8		:	
	-against-	:	Case No.:
9		:	CV 06 3869 (NG) (VVP)
	ARAB BANK, PLC,	:	
10		:	
	Defendant.	:	
11	_____	:	
		:	
12	YAFFA LEV, et al.,	:	
		:	
13	Plaintiffs,	:	
		:	
14	-against-	:	Case No.:
		:	CV 08 03251 (NG) (VVP)
15	ARAB BANK, PLC,	:	
		:	
16	Defendant.	:	
	_____	:	
17		:	
	VIKTORIA AGURENKO, et al.,	:	
18		:	
	Plaintiffs,	:	
19		:	
	-against-	:	Case No.:
20		:	CV 10 00626 (NG) (VVP)
	ARAB BANK, PLC,	:	
21		:	
	Defendant.	:	
22	_____	:	
23		:	
24		:	
25		:	

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ARIEH DAN SPITZEN - 7/20/2011

Page 4

1 Videotaped deposition of ARIEH DAN SPITZEN  
2 (VOLUME I), taken in the above-entitled cause pending  
3 in the United States District Court, Eastern District  
4 of New York, pursuant to notice, before BRENDA MATZOV,  
5 CA CSR 9243, at the David Intercontinental Hotel,  
6 12 Kaufman Street, Conference Room 1123, Tel Aviv,  
7 Israel, on Wednesday, the 20th day of July, 2011,  
8 at 10:04 a.m.

9

10

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25

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ARIEH DAN SPITZEN - 7/20/2011

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1 Hamas. Perhaps just the Hamas started to take control 10:56:24  
2 over them. So in a case like this, it's very important 10:56:27  
3 to state exactly what extent of control the Hamas had 10:56:33  
4 over them back then. 10:56:38

5 Q. BY MR. HOWARD: Mr. Spitzen, you referred 10:56:43  
6 to your 18 criteria methodology, which we will review 10:56:46  
7 during this deposition. 10:56:51

8 Did that methodology, applying it to entities 10:56:54  
9 to determine if they were controlled by Hamas, did you 10:56:58  
10 ever consider, for applying that methodology, that you 10:57:05  
11 should take a random control group to research or to 10:57:08  
12 do something -- a statistical sampling of Palestinian 10:57:13  
13 civil entities to eliminate bias from -- from your 10:57:18  
14 methodology? 10:57:22

15 Did you ever consider that? 10:57:23

16 MR. UNGAR: Objection to form and foundation. 10:58:03

17 THE WITNESS: (Translated.) The 18 criteria 10:58:36  
18 which appear here -- I divided it to 18 -- actually 11:01:10  
19 appeared in many works by researchers, enforcement 11:01:16  
20 entities, in different forms. All in all, this division 11:01:21  
21 into 18 is done in order to make things clearer, to make 11:01:25  
22 it easier. 11:01:29

23 I don't think I know any -- I mean, I don't -- 11:01:32  
24 I wouldn't say that I don't know any researcher. But 11:01:34  
25 most researchers use these in expert opinions. And also 11:01:37



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ARIEH DAN SPITZEN - 7/20/2011

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1 it is used by different entities such as enforcement 11:01:44  
2 entities, the director -- directorate of intelligence 11:01:48  
3 of the IDF, by the Israel security, the ISA. And all 11:01:51  
4 them -- all of them use these criteria. And the 11:01:59  
5 criteria, for example, uses leadership, history, the 11:02:03  
6 source of the money. But if we're going to get into 11:02:07  
7 it later, I'm not going to specify all the criteria now. 11:02:12

8 But all in all, these criteria are the 11:02:16  
9 acceptable criteria in research, in enforcement. And, 11:02:18  
10 also, you can -- in some places, I saw these referred to 11:02:25  
11 as guidelines. I'm not sure exactly what the difference 11:02:28  
12 is. Therefore, I didn't try to check it in comparison 11:02:33  
13 to some kind of another entity. I did not make up this 11:02:36  
14 methodology just for the purpose of checking these 11:02:42  
15 specific Hamas entities. These are acceptable, regular 11:02:45  
16 criteria. People have used them. People still use 11:02:51  
17 them. I've used them in courts, both in civil [sic] 11:02:54  
18 courts and in civilian courts. The State authorities -- 11:02:57

19 (In English.) "Military courts and civilian 11:03:04  
20 courts." 11:03:06

21 THE INTERPRETER: Sorry. 11:03:08

22 THE WITNESS: Military courts and civilian 11:03:08  
23 courts. The State authorities use them in the claims 11:03:08  
24 against the HLF and also in the claim regarding the 11:03:12  
25 Al-Aqsa Foundation in Germany. And, therefore, it's 11:03:15

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ARIEH DAN SPITZEN - 7/20/2011

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1 not something new that I just invented for this 11:03:20

2 research. So I just -- 11:03:25

3 THE VIDEOGRAPHER: We're out of tape. 11:03:35

4 MR. HOWARD: We -- that's fine. We'll get 11:03:35

5 this on the record without the tape. 11:03:35

6 Go ahead. Please finish. 11:03:35

7 THE VIDEOGRAPHER: This marks the end of 11:03:37

8 tape -- 11:03:38

9 MR. HOWARD: No, no, no. I need -- oh, okay. 11:03:38

10 THE VIDEOGRAPHER: This marks the end of Tape 11:03:38

11 No. 1 in the deposition of ArieH Spitzen. Going off the 11:03:38

12 record. The time is 11:03. 11:03:43

13 MR. HOWARD: I just want to finish the 11:03:47

14 translation of the answer that was given. 11:03:49

15 THE INTERPRETER: Okay. 11:03:50

16 THE WITNESS: So it wasn't just something used 11:03:55

17 for this specific expert opinion. So I didn't see any 11:03:57

18 need to check this through comparing with a different 11:04:02

19 group. 11:04:05

20 (Recess from 11:03 a.m. to 11:20 a.m.) 11:04:07

21 THE VIDEOGRAPHER: Back on the record. Here 11:20:14

22 marks the beginning of Tape No. 2 in the deposition of 11:20:14

23 ArieH Spitzen. The time is 11:20. 11:20:20

24 Q. BY MR. HOWARD: Mr. Spitzen, just before the 11:20:26

25 break, you mentioned that the 18 criteria methodology 11:20:28

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1 Palestinian civil entities; correct? 18:45:02

2 A. That belong to Hamas or Islamic Jihad. 18:45:15

3 Q. So it wasn't just entities identified with 18:45:18

4 Hamas. They were ones identified with organizations 18:45:20

5 other than Hamas; correct? 18:45:25

6 A. These were organizations that we suspected 18:45:47

7 were organizations of either the Hamas or the Islamic 18:45:50

8 Jihad. These were Islamic organizations. 18:45:53

9 Q. Now, this book was not publicly available; 18:46:01  
10 correct? 18:46:05

11 MR. UNGAR: Objection to form. 18:46:08

12 THE WITNESS: No. I believe it was 18:46:13  
13 classified. 18:46:14

14 Q. BY MR. HOWARD: And these entities -- Islamic 18:46:18  
15 entities that were listed in the da'wa book maintained 18:46:26  
16 by the PAD, you didn't try to differentiate the level of 18:46:33  
17 affiliation with Hamas or PIJ with any of those entities 18:46:37  
18 did you? 18:46:43

19 MR. UNGAR: Objection to form. Compound. 18:47:00

20 THE WITNESS: Obviously, this book changes 18:48:45  
21 from one year to another. It always depends on the 18:48:46  
22 kind -- on the year. 18:48:50

23 But after the trial of Raed Salah, already 18:48:51

24 in the book of 2004, we tried to introduce criteria, 18:48:55

25 the very same criteria that were used in the trial, 18:49:00

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1 to examine different associations according to these 18:49:03  
2 criteria. 18:49:07

3 I don't quite remember at the moment the exact 18:49:08  
4 wording of these criteria. But in each one of them, to 18:49:11  
5 the best of my recollection, there was a certain chapter 18:49:15  
6 that dealt with the particular institute and its link to 18:49:19  
7 terror, whether it was from the perspective of financing 18:49:23  
8 or activity or certain findings that were found in 18:49:26  
9 this institute and, obviously, a description of the 18:49:31  
10 leadership, who it belonged to. But this is just a 18:49:34  
11 very general memory. I don't remember the details. 18:49:37

12 Q. BY MR. HOWARD: Did the da'wa book contain 18:49:41  
13 the names of Islamic entities that identified with 18:49:43  
14 Hamas but were not part of Hamas, such as the Tubas 18:49:50  
15 Zakat Committee that you identified earlier today? 18:49:54

16 MR. UNGAR: Objection to form. Time frame, 18:50:11  
17 version of the book. 18:50:15

18 THE WITNESS: The da'wa book, as I said, 18:50:56  
19 included various Islamic entities. I don't remember 18:50:58  
20 the exact part or the chapter of Jenin at the moment. 18:51:02  
21 But it's very -- it makes sense that the Zakat 18:51:06  
22 committee -- the Tubas Zakat Committee was mentioned 18:51:10  
23 there and who controlled it. But I cannot swear about 18:51:14  
24 it because it's not before me now. 18:51:18

25 Q. BY MR. HOWARD: So is it fair to say the da'wa 18:51:21

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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COURTNEY LINDE, et al.,  
Plaintiffs,  
-against-  
ARAB BANK, PLC,  
Defendant.

:  
:  
:  
:  
:  
: Case No.:  
: CV 04 2799 (NG) (VVP)

---

PHILIP LITTLE, et al.,  
Plaintiffs,  
-against-  
ARAB BANK, PLC,  
Defendant.

:  
:  
:  
:  
:  
: Case No.:  
: CV 04 5449 (NG) (VVP)

---

ORAN ALMOG, et al.,  
Plaintiffs,  
-against-  
ARAB BANK, PLC,  
Defendant.

:  
:  
:  
:  
:  
: Case No.:  
: CV 04 5564 (NG) (VVP)

VIDEOTAPED DEPOSITION OF ARIEH DAN SPITZEN  
(VOLUME III)  
Tel Aviv, Israel  
July 24, 2011

Reported by: BRENDA MATZOV, CA CSR 9243

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1	ROBERT L. COULTER, SR., FOR	:
	THE ESTATE OF JANIS RUTH	:
2	COULTER, et al.,	:
		:
3	Plaintiffs,	:
		:
4	-against-	: Case No.:
		: CV 05 365(NG) (VVP)
5	ARAB BANK, PLC,	:
		:
6	Defendant.	:
	_____	:
7		:
	GILA AFRIAT-KURTZER, et al.,	:
8		:
	Plaintiffs,	:
9		:
	-against-	: Case No.:
10		: CV 05 388(NG) (VVP)
	ARAB BANK, PLC,	:
11		:
	Defendant.	:
12	_____	:
		:
13	MICHAEL BENNETT, et al.,	:
		:
14	Plaintiffs,	:
		:
15	-against-	: Case No.:
		: CV 05 3183(NG) (VVP)
16	ARAB BANK, PLC,	:
		:
17	Defendant.	:
	_____	:
18		:
	ARNOLD ROTH, et al.,	:
19		:
	Plaintiffs,	:
20		:
	-against-	: Case No.:
21		: CV 05 3738(NG) (VVP)
	ARAB BANK, PLC,	:
22		:
	Defendant.	:
23	_____	:
24		:
25		:

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1	STEWART WEISS, et al.,	:	
		:	
2	Plaintiffs,	:	
		:	
3	-against-	:	Case No.:
		:	CV 06 1623 (NG) (VVP)
4	ARAB BANK, PLC,	:	
		:	
5	Defendant.	:	
	_____	:	
6		:	
	JOSEPH JESNER, et al.,	:	
7		:	
	Plaintiffs,	:	
8		:	
	-against-	:	Case No.:
9		:	CV 06 3869 (NG) (VVP)
	ARAB BANK, PLC,	:	
10		:	
	Defendant.	:	
11	_____	:	
		:	
12	YAFFA LEV, et al.,	:	
		:	
13	Plaintiffs,	:	
		:	
14	-against-	:	Case No.:
		:	CV 08 03251 (NG) (VVP)
15	ARAB BANK, PLC,	:	
		:	
16	Defendant.	:	
	_____	:	
17		:	
	VIKTORIA AGURENKO, et al.,	:	
18		:	
	Plaintiffs,	:	
19		:	
	-against-	:	Case No.:
20		:	CV 10 00626 (NG) (VVP)
	ARAB BANK, PLC,	:	
21		:	
	Defendant.	:	
22	_____	:	
23		:	
24		:	
25		:	

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1 Videotaped deposition of ARIEH DAN SPITZEN  
2 (VOLUME III), taken in the above-entitled cause pending  
3 in the United States District Court, Eastern District  
4 of New York, pursuant to notice, before BRENDA MATZOV,  
5 CA CSR 9243, at the David Intercontinental Hotel,  
6 12 Kaufman Street, Conference Room 1123, Tel Aviv,  
7 Israel, on Sunday, the 24th day of July, 2011,  
8 at 10:07 a.m.

9  
10

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23  
24  
25



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1 A. Okay. 15:06:06

2 Q. I'm looking at the page Bates numbered 15:06:44

3 MR-AB00053295. 15:06:47

4 A. Okay. 15:07:01

5 Q. And paragraph No. 22. 15:07:03

6 A. Okay. 15:07:11

7 Q. It says here that: 15:07:12

8 "Since the Hamas organization does not 15:07:14

9 go public with its relation to the Islamic civilian 15:07:16

10 assistance system, the following institutions have 15:07:21

11 been judged according to several standards which 15:07:25

12 denote their relations to the Hamas." 15:07:28

13 Do you see that? 15:07:31

14 A. Yes. 15:07:39

15 Q. And there you list seven criteria for making 15:07:39

16 that determination; correct? 15:07:42

17 A. That's correct. 15:07:50

18 Q. When was the first time that you ever used 15:07:51

19 an 18-criteria formula for answering or addressing the 15:07:55

20 question of whether an entity was related to Hamas? 15:08:02

21 MR. UNGAR: Objection to form. 15:08:21

22 THE WITNESS: I think I already spoke about 15:09:41

23 this in my testimony. I think it was at the beginning 15:09:43

24 of the testimony. 15:09:46

25 But when it comes to the criteria themselves, 15:09:47

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1 not the list of them, then we use them for a very long 15:09:49  
2 time, especially after the Raed Salah trial. And we 15:09:55  
3 even improved them. We did not break them down to 15:10:00  
4 18 criteria. 15:10:03

5 A criterion might -- might be written here, 15:10:06  
6 but then it can be broken down to more than one 15:10:08  
7 criterion. So I, as well as many others, have used 15:10:12  
8 those criteria extensively. I prepared the list of 15:10:16  
9 18 criteria in order to make it easy for all those 15:10:18  
10 who would read the report. 15:10:23

11 Q. BY MR. HOWARD: (Not translated.) Isn't it 15:10:24  
12 true, Mr. Spitzen, that there are criteria among -- 15:10:25

13 THE INTERPRETER: I'm sorry. There was a 15:10:29  
14 continuation. 15:10:30

15 THE WITNESS: I simply broke it down. It 15:10:31  
16 doesn't meant -- mean that they didn't exist earlier or 15:10:33  
17 that I did not take them into consideration in various 15:10:36  
18 circumstances. 15:10:40

19 THE INTERPRETER: Sorry. 15:10:41

20 Q. BY MR. HOWARD: Am I correct, though, that 15:10:41  
21 there are criteria that you include among the 18 that 15:10:43  
22 you were using in this case and against -- in the cases 15:10:46  
23 against Credit Lyonnais and NatWest that were not in 15:10:49  
24 any way part of your criteria in the Raed Salah case? 15:10:53

25 A. Yes. There are such criteria. 15:11:22

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1 Q. And when was the first time that you used 15:11:25  
2 those additional criteria? Was that in these lawsuits 15:11:27  
3 against the banks? 15:11:31

4 MR. UNGAR: Just for the record, just for the 15:11:45  
5 clarity, NatWest, Credit Lyonnais, and Arab Bank? 15:11:46

6 MR. HOWARD: Yes. 15:11:53

7 THE WITNESS: Not these criteria -- well, at 15:12:16  
8 least not as a part of an expert witness. I didn't have 15:12:19  
9 the occasion to do that as an expert witness. But in 15:12:23  
10 papers that I wrote, definitely. And in reviews that 15:12:28  
11 I wrote, definitely. 15:12:30

12 Q. BY MR. HOWARD: So the first time you used 15:12:33  
13 this complete list of 18 criteria as a methodology for 15:12:35  
14 assessing a relationship between any entity and Hamas 15:12:42  
15 was for purposes of being an expert witness in these 15:12:46  
16 three cases against banks pending in the United States; 15:12:50  
17 correct? 15:12:54

18 There might be something missing from my 15:13:11  
19 question. 15:13:16

20 The first time, as an expert witness, that 15:13:16  
21 you used this 18-criteria methodology was as an expert 15:13:18  
22 witness in these three cases against banks; correct? 15:13:23

23 A. When it's formulated that way, then yes. 15:13:40

24 Q. And you've stated several times that there 15:13:45  
25 are others who use this methodology. 15:13:49

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1 Who are the principal researchers in the 15:13:53  
2 field who you look to -- well, let me strike that 15:13:56  
3 and ask you: First of all, what is it -- what is the 15:14:04  
4 field of expertise from which you have derived this 15:14:09  
5 18-criteria methodology? How would you define it? 15:14:13  
6 A. I don't understand the question so much. 15:14:46  
7 Q. Well, you've talked about other researchers 15:14:48  
8 in the field that use this 18-criteria methodology. 15:14:51  
9 I want to know how you define the "field of expertise." 15:14:53  
10 What is it that you and these other 15:14:58  
11 researchers who use this methodology are an expert in? 15:15:00  
12 A. So it goes like this. When I said -- or 15:17:06  
13 refer to those who are using these criteria and other 15:17:09  
14 criteria, similar ones, those who had mentioned them and 15:17:12  
15 are mentioning them, I meant researchers that come from 15:17:17  
16 the enforcement entities, whether it's the intelligence 15:17:21  
17 directorate or the ISA. And they bring them up in their 15:17:24  
18 reports, even on the Internet. 15:17:29  
19 The intelligence directorate with respect to 15:17:31  
20 the HLF, on behalf of the head of the research division, 15:17:34  
21 or in the ISA, the testimony of the witness Avi, again, 15:17:39  
22 in the HLF case. They're using them as guidelines, as 15:17:45  
23 criteria. And they mention some of them as criteria, 15:17:49  
24 these research divisions or branches in the enforcement 15:17:52  
25 organizations as well as Middle East experts who study 15:17:59

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1 the field. 15:18:05

2 And this is how they identify institutes. 15:18:06

3 They relate to these criteria one way or another. Not 15:18:08

4 always do they relate to all 18, sometimes only to some 15:18:12

5 of them. And they use the criteria that I'm actually 15:18:16

6 using here. 15:18:19

7 Q. Can you identify anyone else who uses the same 15:18:20

8 18 criteria that you do? Or is this something unique 15:18:24

9 that you are bringing to the exercise? 15:18:29

10 MR. UNGAR: Can I ask a point of clarification 15:18:30

11 I think will make it clearer? You specifically 15:18:44

12 delineated 18 criteria? That's the question? Not 15:18:49

13 just -- 15:18:52

14 MR. HOWARD: Correct. 15:18:52

15 MR. UNGAR: -- the substance? Okay. 15:18:53

16 THE WITNESS: These 18 criteria, as they 15:19:22

17 appear in a list of one criterion coming after another, 15:19:25

18 the way I wrote this, then it's only me -- or it's me 15:19:29

19 that is using them. But with respect to the criteria 15:19:32

20 in general, all of them or some of them, they are used 15:19:35

21 extensively. 15:19:41

22 Q. BY MR. HOWARD: Well, can you name any other 15:19:42

23 researcher who has used every one of the criteria that 15:19:44

24 you have used to make an assessment of whether an entity 15:19:47

25 is connected to Hamas or not? 15:19:52

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1	MR. UNGAR: Objection to form.	15:20:05
2	(Brief exchange in Hebrew between the	15:20:05
3	interpreter and the witness.)	15:20:05
4	THE WITNESS: Do you mean all of them	15:20:22
5	together?	15:20:25
6	Q. BY MR. HOWARD: Correct.	15:20:26
7	A. I did not check this. But I can tell you	15:20:36
8	that I remember someone now who used all 18 of them.	15:20:38
9	Q. As you stated them in your report?	15:20:42
10	(Brief exchange in Hebrew between the	15:20:44
11	interpreter and the witness.)	15:20:44
12	THE INTERPRETER: The witness thought that	15:21:03
13	I misinterpreted him. So I re-read what I interpreted,	15:21:05
14	and he agreed that that is what he said.	15:21:09
15	THE WITNESS: (In English.) And now I want	15:21:14
16	the question.	15:21:15
17	THE INTERPRETER: And now the question again	15:21:16
18	because -- yeah.	15:21:16
19	Q. BY MR. HOWARD: Did that other person who you	15:21:17
20	can't remember use all 18 criteria as you have defined	15:21:19
21	them? Or did you interpret what that person was doing?	15:21:23
22	THE INTERPRETER: The -- what the witness said	15:21:31
23	is that he doesn't know of anyone who used the 18 -- all	15:21:33
24	18 criteria. Maybe I did not interpret it in the way	15:21:37
25	that that was clear.	15:21:39

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1 THE WITNESS: (In English.) Because of that, 15:21:42

2 I interfered in the interpretation. 15:21:43

3 THE INTERPRETER: Okay. Okay. 15:21:44

4 Q. BY MR. HOWARD: So is it fair to say you've 15:21:52

5 never -- have you seen the 18 criteria, as you've stated 15:21:53

6 them, published anywhere in any treatise? 15:21:57

7 A. In this form, no. 15:22:05

8 Q. What are the treatises that you recognize as 15:22:15

9 being authorities in the field? 15:22:21

10 And by "field," I mean the field of, as 15:22:27

11 you describe it, connecting or assessing the relation 15:22:31

12 between civil entities and Hamas. 15:22:34

13 MR. UNGAR: Objection to form and foundation. 15:22:46

14 THE WITNESS: I'd like to understand the 15:23:10

15 question. Are you talking about some kind of a 15:23:11

16 specific work, some kind of a specific research that 15:23:14

17 I would rely on as identify these -- identifying these 15:23:17

18 specific associations? 15:23:22

19 Q. BY MR. HOWARD: Not quite. I'm asking about 15:23:25

20 specific works of specific researchers with regard to 15:23:27

21 the process as to how to identify an entity as being 15:23:33

22 related to Hamas, not with respect to a specific entity. 15:23:37

23 MR. UNGAR: Objection. Foundation. 15:23:57

24 THE WITNESS: I hope I understand what you're 15:24:05

25 asking. I'm not sure. 15:24:07

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1 Q. BY MR. HOWARD: I'm asking you whether -- 15:24:10

2 strike that. 15:24:11

3 You said you've read other researchers, 15:24:14

4 other works in coming up with your 18 criteria. And 15:24:16

5 I'm asking you: What are the published treatises or 15:24:20

6 authorities that you rely on as being expert in the -- 15:24:24

7 in determining what criteria to use for establishing 15:24:28

8 a relationship between an entity and Hamas? 15:24:35

9 MR. UNGAR: Same objection. 15:25:02

10 THE WITNESS: If you're talking about 15:25:55

11 methodological documents, documents that pertain 15:25:57

12 to determining the identification or affiliation 15:26:01

13 and documents that are only methodological, then 15:26:06

14 I did not find any such documents. 15:26:10

15 What I did find is documents that are 15:26:12

16 mainly from enforcement entities, but also from 15:26:16

17 researchers, that do use these criteria -- maybe 15:26:19

18 some of them, maybe just a few of them -- when they 15:26:24

19 come to determine whether a certain entity is or 15:26:27

20 isn't affiliated with the Hamas, especially if it -- 15:26:31

21 to determine if it is affiliated. 15:26:34

22 Q. BY MR. HOWARD: So when you sat down and wrote 15:26:38

23 out your 18 criteria to use in these lawsuits against 15:26:41

24 these banks, you did not have any published treatise 15:26:45

25 that you were relying upon? 15:26:50



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1 A. Do you mean a published treaty [sic] regarding 15:26:53

2 the criteria, how to determine the criteria, how to use 15:27:17

3 the criteria? 15:27:21

4 Q. Correct. 15:27:22

5 A. No. What I did have to my disposal -- several 15:28:50

6 things I had, actually -- was the use that was done in 15:28:54

7 courts in Israel, in the U.S., and also in Germany when 15:28:57

8 they came to prove the identity of this association or 15:29:02

9 that association. This is as far as the legal material 15:29:06

10 goes. And I mean all those documents of the prosecution 15:29:11

11 in the HLF and also against the Al-Aqsa Foundation. 15:29:15

12 And also there's a very interesting report 15:29:21

13 in the IRFAN -- IRFAN. That's the outlawing of the 15:29:24

14 Canadian foundation. Actually, there it's called 15:29:29

15 different. It has a different name. It's not called 15:29:33

16 being outlawed. But it is nonrecognition of a certain 15:29:36

17 entity for it to be recognized for tax exemption 15:29:41

18 purposes. 15:29:46

19 THE INTERPRETER: And I cut him off here. 15:29:50

20 THE WITNESS: That's one thing. 15:31:30

21 (Long narrative in Hebrew by the witness.) 15:31:34

22 MR. HOWARD: You know, can I hear what he's 15:31:44

23 said so far? Because my question was about treatises. 15:31:59

24 He said "no" to treatises. And everything thereafter 15:32:01

25 has been nonresponsive to my question. I'll listen to 15:32:03

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1 what he has to say. If he wants to keep going, it will 15:32:08  
2 be nonresponsive. But I want to hear what he's saying 15:32:12  
3 about my question. 15:32:15

4 THE WITNESS: So that's one thing. And then 15:32:15  
5 I had at my disposal all the reports that are public. 15:32:17  
6 I mean, I couldn't reach the ones that were not open 15:32:21  
7 to the public of the ISA. There's a very detailed 15:32:24  
8 report regarding there the da'wa. They also have a 15:32:27  
9 report about the Union of Good. That's on the Internet. 15:32:30  
10 And then there's many books written by researchers. 15:32:33  
11 And all of these are mentioned throughout my footnotes 15:32:38  
12 that appear in the report. 15:32:43

13 I also used quite a lot the book of Milstein, 15:32:45  
14 "The Green Revolution," and also other researchers of 15:32:49  
15 these institutions, specially those who research members 15:32:53  
16 or affiliates or associations that related to the Hamas 15:33:00  
17 and -- and how and why it is determined that certain 15:33:04  
18 civil entities are related to the Hamas. I also used 15:33:11  
19 the Hamas lexicon and even the books by Salah and 15:33:14  
20 Mishal, "The Hamas Times" -- 15:33:18

21 THE INTERPRETER: That's the loose interpreted 15:33:22  
22 translation. 15:33:23

23 THE WITNESS: -- and also Ronni Shaked's book. 15:33:24  
24 All of them are required to identify whether certain 15:33:27  
25 insti -- civil institutions of the Hamas are in -- 15:33:30

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1 are, indeed, affiliated to the Hamas. And they all 15:33:32

2 use various criteria which appear here. 15:33:38

3 MR. HOWARD: Objection. Nonresponsive. 15:33:41

4 Q. BY MR. HOWARD: Can you answer me "yes" or 15:33:45

5 "no"? Did you have any scholarly treatises that you 15:33:46

6 relied on that outlined the 18-criteria methodology 15:33:51

7 and how to apply them as you have done here? 15:33:55

8 A. I think I've answered this. I didn't have 15:34:21

9 any methodological paper in front of me. 15:34:24

10 Q. And you yourself have not published any 15:34:27

11 methodological paper outlining your eight -- 18 criteria 15:34:32

12 and how to apply them -- correct? 15:34:35

13 I mean, other than your expert reports in the 15:34:44

14 Credit Lyonnais, NatWest, and Arab Bank cases? 15:34:46

15 A. No. 15:34:57

16 Q. I take it your 18-criteria methodology and how 15:35:05

17 you've applied it has not been peer-reviewed by anybody 15:35:08

18 else; correct? 15:35:14

19 A. Do you mean by some kind of a research 15:35:32

20 institute? I'd like to understand exactly what you 15:35:36

21 mean by that. 15:35:38

22 Q. Are you familiar with the peer-review process 15:35:38

23 by which, if you're going to publish a learned paper, 15:35:41

24 peers in your field have to review it for the -- and 15:35:46

25 comment on it? 15:35:50

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ARIEH DAN SPITZEN - 7/24/2011

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1 differently, someone from a different discipline, yes, 15:50:46  
2 he could definitely say, "This criteria, I don't agree 15:50:49  
3 with it." That is possible. 15:50:52

4 Q. BY MR. HOWARD: And do you know whether 15:50:56  
5 the ISA applied all of these 18 criteria in making a 15:50:58  
6 determination as to whether any entity had a relation 15:51:05  
7 with Hamas? 15:51:09

8 MR. UNGAR: Objection. Foundation. 15:51:20

9 THE WITNESS: It's a general question. I 15:52:28  
10 don't know whether the Shabak had used all 18. But 15:52:30  
11 I did tell you earlier, in the answer which you didn't 15:52:34  
12 accept, that I did use works done by the Shabak. They 15:52:38  
13 used or mention some of the criteria. 15:52:44

14 Actually, there's the criteria from the 15:52:48  
15 Raed Salah case. And if you divide them up, there's 15:52:51  
16 actually much more than seven, if you compare them to 15:52:57  
17 these. And these were definitely examined by the ISA, 15:53:00  
18 by the advocacy [sic] general, by the directorate of 15:53:02  
19 the intelligence. And they did accept that. It was 15:53:06  
20 confirmed by all of them. 15:53:09

21 Q. BY MR. HOWARD: What way was it confirmed? 15:53:15

22 A. My expert report regarding Raed Salah was done 15:54:40  
23 in close collaboration with both the general advocacy 15:54:45  
24 and the Attorney General to the ISA. Both of them, 15:54:50  
25 before it was submitted to court, made any comments, if 15:54:54

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1 they had. And they definitely approved of the criteria 15:54:59

2 that's written in my expert opinion. 15:55:04

3 In order to be more modest, I could say that, 15:55:07

4 indeed, the criteria were issued or submitted by me and 15:55:10

5 also by Ms. Meridor, who worked with me closely also 15:55:16

6 on that expert opinion. But they did pass through the 15:55:21

7 review and editions by both the Attorney General and 15:55:25

8 the ISA. 15:55:31

9 Q. Was your expert report that you submitted in 15:55:31  
10 this case against Arab Bank or in either of the other 15:55:45  
11 bank cases cleared through the ISA? 15:55:49

12 MR. UNGAR: Objection to form. 15:56:02

13 THE WITNESS: No. 15:56:05

14 Q. BY MR. HOWARD: Was it cleared through the -- 15:56:05  
15 did you say the Attorney General to the ISA? 15:56:08

16 MR. UNGAR: Objection to form. 15:56:20

17 THE WITNESS: Hold on. I don't know what 15:56:37  
18 you're talking about. I'm confused. Are you talking 15:56:38  
19 about the Raed Salah report or the report at hand? 15:56:41  
20 I'm simply lost. 15:56:44

21 Q. BY MR. HOWARD: The report at hand, the 15:56:46  
22 report that is Exhibit 1 that you submitted in this 15:56:47  
23 case against Arab Bank, did anyone at the ISA, including 15:56:50  
24 the Attorney General to the ISA, approve this report? 15:56:55

25 MR. UNGAR: Objection to form. 15:57:12

**EXHIBIT 156 to Declaration of Joel Israel**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

TZVI WEISS, et al.,

Plaintiffs,

vs.

Case No.

05-CV-4622 (DLI) (MDG)

NATIONAL WESTMINSTER

BANK, PLC,

Defendant.

-----)

NATAN APPLEBAUM, et al.,

Plaintiffs,

vs.

Case No.

07-CV-916 (DLI) (MDG)

NATIONAL WESTMINSTER

BANK, PLC,

Respondent.

-----)

Friday, June 10, 2011

9:40 a.m.

Deposition of BRIAN MICHAEL

JENKINS, held at the offices of Osen LLC, 345  
Seventh Avenue, New York, New York, pursuant  
to Notice, before Shauna Stoltz-Laurie, a  
Registered Professional Reporter, Certified  
Realtime Reporter and Notary Public of the  
State of New York.

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A P P E A R A N C E S:

OSEN LLC

Attorneys for the Weiss Plaintiffs

700 Kinderkamack Road

Oradell, New Jersey 07649

BY: GARY M. OSEN, ESQ.

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BY: AVRAM E. LUFT, ESQ.

aluft@cgsh.com

BRENDAN GIBBON, ESQ.

bgibbon@cgsh.com

ALSO PRESENT:

MARK GRUBE (Cleary Gottlieb law clerk)

ANDRA PRUTU (Cleary Gottlieb law clerk)



1  
2  
3  
4  
5 IT IS HEREBY STIPULATED AND AGREED,  
6 by and between the attorneys for the  
7 respective parties herein, that filing  
8 and sealing be and the same are hereby  
9 waived.

10 IT IS FURTHER STIPULATED AND AGREED  
11 that all objections, except as to the  
12 form of the question, shall be reserved  
13 to the time of the trial.

14 IT IS FURTHER STIPULATED AND AGREED  
15 that the within deposition may be sworn  
16 to and signed before any officer  
17 authorized to administer an oath, with  
18 the same force and effect as if signed  
19 and sworn to before the Court.  
20  
21  
22  
23  
24  
25

1 Jenkins

2 interrupt you, but can we go off the record 09:57:59

3 for about 20 seconds? 09:58:01

4 THE VIDEOGRAPHER: We're going off 09:58:02

5 the record. The time is 9:57. 09:58:03

6 (Recess taken.) 09:58:07

7 THE VIDEOGRAPHER: We are back on 09:59:51

8 the record. The time is 9:59. 09:59:57

9 Q. Mr. Jenkins, I moment ago I asked 09:59:59

10 you whether one needed to have some degree of 10:00:02

11 specialized knowledge about Hamas or other 10:00:09

12 Palestinian terrorist groups to conduct this 10:00:10

13 kind of technical review, and your response 10:00:16

14 was that you think that you need to have 10:00:18

15 familiarity with the -- the way the Live Note 10:00:21

16 reads, it sort of goes on from there, but you 10:00:28

17 used the term "familiarity" rather than 10:00:30

18 "specialized knowledge." And I guess my 10:00:33

19 question to you is what degree of familiarity 10:00:35

20 do you believe you need to have in order to 10:00:37

21 perform the technical review you did. 10:00:40

22 MR. LUFT: Objection. Misstates 10:00:42

23 his prior testimony. 10:00:44

24 A. I'm -- I'm not sure, in terms of 10:00:45

25 familiarity, what a numerical scale or a 10:00:48

1 Jenkins

2 quantifiable answer would -- would -- would 10:00:51  
3 be on that. I mean if we were talking about 10:00:53  
4 nuclear physics or brain surgery, those are 10:00:57  
5 highly technical subjects, and -- and -- and 10:01:01  
6 I would say that, you know, that's a 10:01:03  
7 different criteria. But often I'm called 10:01:06  
8 upon to -- to review or other people are 10:01:10  
9 called upon to review research products in 10:01:15  
10 which they do not have a -- a degree of 10:01:21  
11 specialized knowledge and are not intended to 10:01:29  
12 replicate the knowledge of the person or 10:01:33  
13 replicate the research done by the person who 10:01:36  
14 is the author of -- of the report. 10:01:39

15 So I mean are we saying familiarity 10:01:41  
16 is -- is more than an informed layman's 10:01:44  
17 knowledge? Certainly. 10:01:48

18 Is it -- is it coupled with other 10:01:49  
19 experience; is it beyond that? I would 10:01:53  
20 suggest that it is. 10:01:56

21 Has Hamas been a feature of a focus 10:01:58  
22 of my own writings specifically, the answer 10:02:04  
23 is -- is no. 10:02:08

24 Q. In conducting the technical review 10:02:13  
25 in the reports of NatWest, did you assign a 10:02:17

1 Jenkins

2 MR. OSEN: No. 12:59:25

3 MR. LUFT: If you're talking about 12:59:25  
4 it, let me know. 12:59:25

5 MR. OSEN: Oh, my God. 12:59:27

6 THE VIDEOGRAPHER: We are off the 12:59:28  
7 record. The time is 12:59. 12:59:29

8 (Recess taken.) 13:00:26

9 THE VIDEOGRAPHER: We are back and 13:18:15  
10 the record. The time is 1:18. 13:18:21

11 Q. Mr. Jenkins, I'd ask you to turn 13:18:24  
12 back to page 12 of your report, Exhibit 13:18:28  
13 number 1. 13:18:33

14 A. (Perusing document) Page 12, yes, 13:18:39  
15 sir. 13:18:45

16 Q. Yes. The 2ne sentence on the page 13:18:45  
17 reads "The PRC was founded by an ex-member of 13:18:48  
18 Fatah, and, according to the government of 13:18:51  
19 Israel, was instigated and funded by 13:18:53  
20 Hezbollah." Do you see that? 13:18:57

21 A. Yes. 13:18:59

22 Q. Can you tell me who the ex-member 13:18:59  
23 of Fatah is who founded the PRC? 13:19:02

24 A. Not without going back into my 13:19:05  
25 footnotes, I would not be able to recall 13:19:08

1 Jenkins

2 that. 13:19:10

3 Q. You mean into the document you 13:19:11  
4 cited in the footnote. 13:19:15

5 A. Um-hm, yes, I'd have to go back 13:19:16  
6 into my files to see, because I can't recall 13:19:18  
7 at this moment. I mean it's footnoted here, 13:19:25  
8 and I see the source is the Israeli Ministry 13:19:29  
9 of Foreign Affairs, and there is a website 13:19:33  
10 connection to it. 13:19:36

11 Q. Do you know where the PRC is 13:19:38  
12 headquartered? 13:19:40

13 MR. LUFT: Objection, relevance. 13:19:41

14 A. No, I don't. 13:19:46

15 Q. Do you know -- can you name a 13:19:46  
16 single attack committed by the PRC against 13:19:50  
17 Israeli targets in Israel? 13:19:55

18 A. I can't at -- at this moment, but I 13:19:58  
19 believe I do recall I have some recollection 13:20:11  
20 of PRC being identified as responsible for 13:20:11  
21 attacks in Israel, but that is a 13:20:16  
22 recollection. As I said, I've have to go 13:20:19  
23 back into my -- into my footnotes here. That 13:20:21  
24 was not one of the -- one of the key groups 13:20:25  
25 that I was -- that I was looking at. 13:20:26

1 Jenkins

2 Q. Well, let's turn then to the 13:20:28

3 "PFLP" -- 13:20:30

4 A. Yes. 13:20:31

5 Q. -- if we can for a moment. 13:20:32

6 Do you see in the 2ne sentence 13:20:35

7 under "PFLP, Under the banner of the" Ab -- 13:20:36

8 "Abu Ali Mustafa Brigades, the PFLP is 13:20:40

9 believed to be responsible for the 13:20:44

10 assassination of Israel's Minister of 13:20:45

11 Tourism"? 13:20:49

12 A. Yes. 13:20:50

13 Q. Do you know who or what the Abu Ali 13:20:51

14 Mustafa Brigades are named for? 13:20:58

15 A. No, in this case I -- I don't 13:21:01

16 recall what -- what -- what they -- what it's 13:21:03

17 named after. I don't. 13:21:06

18 Q. Can you name the current head of 13:21:07

19 the Popular Front for the Liberation of 13:21:10

20 Palestine? 13:21:13

21 A. I believe it's still George Habash. 13:21:13

22 Q. Let's turn to page 13 with the 13:21:18

23 heading "Al-Aqsa Martyrs Brigade." 13:21:22

24 A. Yes. 13:21:26

25 Q. Do you see it says that "The 13:21:26

1 Jenkins

2 Al-Aqsa Martyrs Brigade first appeared in" 13:21:26

3 two thousand (inaudible) -- 13:21:29

4 (Discussion off the record.) 13:21:29

5 Q. The first sentence reads "The 13:21:33

6 Al-Aqsa Martyrs Brigade first appeared in 13:21:34

7 2002." 13:21:37

8 A. I believe that is the first 13:21:38

9 citation for -- for -- for an attack by 13:21:40

10 Al-Aqsa, right. 13:21:43

11 Q. And when it first appeared do you 13:21:44

12 know who its leader was? 13:21:47

13 A. I -- I -- no, I don't know. I 13:21:48

14 don't recall. I just recall that it was 13:21:52

15 believed to be a -- a creation of Fatah. 13:21:54

16 Q. Can you turn, please, to page 15? 13:21:57

17 A. Yes. 13:22:05

18 Q. The first paragraph, that begins 13:22:06

19 "There are several reported examples," do you 13:22:10

20 see that? 13:22:13

21 A. Yes. 13:22:13

22 Q. And the 2ne sentence reads "The 13:22:14

23 August 19th, 2003 bombing of a No. 2 bus that 13:22:17

24 undermined an Israeli-Palestinian ceasefire 13:22:22

25 was reportedly committed by a self-proclaimed 13:22:26

**EXHIBIT 157 to Declaration of Joel Israel**



1 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

2 - - - - -x

MOSES STRAUSS, et al.,  
Plaintiffs,  
-against-  
CREDIT LYONNAIS, S.A.,  
Defendant.

6 Civil Action No. 06-CV-702 (DGT)(MDG)

7 - - - - -x

BERNICE WOLF, et al.,  
Plaintiffs  
-against-  
CREDIT LYONNAIS, S.A.,  
Defendant.

11 Civil Action No. 07-CV-914 (DGT)(MDG)

12 - - - - -x

13 1540 Broadway  
New York, New York

14  
December 16, 2010  
9:42 a.m.

17 DEPOSITION of BRIAN MICHAEL JENKINS,  
18 an Expert Witness in the above-entitled  
19 action, held at the above time and place,  
20 taken before Dawn Matera, a Shorthand  
21 Reporter and Notary Public of the State  
22 of New York, pursuant to the Federal  
23 Rules of Civil Procedure.

VERITEXT REPORTING COMPANY

212-267-6868

516-608-2400

<p style="text-align: right;"><b>2</b></p> <p>1 APPEARANCES:</p> <p>2</p> <p>3</p> <p>4 OSEN LLC Attorneys for Plaintiffs 345 Seventh Avenue, 21st Floor New York, New York 10001 (646) 380-0470</p> <p>6 BY: JOSHUA DAVID GLATTER, ESQ. jdg@osen.us</p> <p>7 - and -</p> <p>8 OSEN LLC 700 Kinderkamack Road Oradell, New Jersey 07649</p> <p>10 BY: ARI UNGAR, ESQ. au@osen.us</p> <p>11 BY: NAOMI B. WEINBERG, ESQ. nbw@osen.us</p> <p>12</p> <p>13 KOHN SWIFT &amp; GRAF, P.C. Attorneys for Plaintiffs One South Broad Street Philadelphia, Pennsylvania 19107</p> <p>15 BY: STEVEN M. STEINGARD, ESQ. ssteingard@koh Swift.com</p> <p>16</p> <p>17</p> <p>18 CLEARY GOTTlieb STEEN &amp; HAMILTON LLP Attorney for Defendant One Liberty Plaza New York, New York 10006</p> <p>20 BY: AVRAM E. LUFT, ESQ. aluft@cgsh.com</p> <p>21 BY: BRENDAN H. GIBBON, ESQ. bgibbon@cgsh.com</p> <p>22 BY: MARK GRUBE, ESQ.</p> <p>23</p> <p>24 Also Present:</p> <p>25 Bob Rudis, Videographer</p>	<p style="text-align: right;"><b>4</b></p> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: My name is 09:38:34</p> <p>3 Robert Rudis, of Veritext. The date 09:38:34</p> <p>4 today is December 16th, 2010, and the 09:38:37</p> <p>5 time is approximately 9:42 a.m. 09:38:40</p> <p>6 This deposition is being held in 09:38:44</p> <p>7 the office of Zuckerman Spaeder LLP, 09:38:46</p> <p>8 1540 Broadway, New York, New York. 09:38:51</p> <p>9 The caption of this case is 09:38:54</p> <p>10 Moses Strauss, et al., against Credit 09:38:56</p> <p>11 Lyonnais, S.A., Civil Action Number 09:39:00</p> <p>12 06-CV-702 (DGT)(MDG). 09:39:05</p> <p>13 Also Bernice Wolf, et al., 09:39:13</p> <p>14 against Credit Lyonnais, Civil Action 09:39:15</p> <p>15 Number 07-CV-914(DGT)(MDG), to be 09:43:25</p> <p>16 heard in the United States District 09:43:33</p> <p>17 Court, Eastern District of New York. 09:43:35</p> <p>18 The name of the witness is Brian 09:43:36</p> <p>19 Michael Jenkins. 09:43:37</p> <p>20 At this time, will the attorneys 09:43:39</p> <p>21 please identify themselves and the 09:43:41</p> <p>22 parties they represent, after which 09:43:42</p> <p>23 our court reporter, Dawn Matera, also 09:43:44</p> <p>24 of Veritext, will swear in the witness 09:43:46</p> <p>25 and we can proceed. 09:43:48</p>
<p style="text-align: right;"><b>3</b></p> <p>1 STIPULATIONS</p> <p>2 IT IS HEREBY STIPULATED AND AGREED, by</p> <p>3 and among counsel for the respective</p> <p>4 parties hereto, that the filing, sealing</p> <p>5 and certification of the within</p> <p>6 deposition shall be and the same are</p> <p>7 hereby waived;</p> <p>8 IT IS FURTHER STIPULATED AND AGREED</p> <p>9 that all objections, except as to form of</p> <p>10 the question, shall be reserved to the</p> <p>11 time of the trial;</p> <p>12 IT IS FURTHER STIPULATED AND AGREED</p> <p>13 that the within deposition may be signed</p> <p>14 before any Notary Public with the same</p> <p>15 force and effect as if signed and sworn</p> <p>16 to before the Court.</p> <p>17 * * *</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;"><b>5</b></p> <p>1 PROCEEDINGS</p> <p>2 MR. GLATTER: Joshua Glatter, 09:43:49</p> <p>3 Osen LLC, on behalf of the Plaintiffs. 09:43:50</p> <p>4 MR. UNGAR: Ari Ungar, Osen LLC, 09:43:55</p> <p>5 on behalf of the Strauss Plaintiffs. 09:43:58</p> <p>6 MR. STEINGARD: Steven 09:44:00</p> <p>7 Steingard, Kohn Swift &amp; Graf, on</p> <p>8 behalf of the Plaintiffs. 09:44:03</p> <p>9 MS. WEINBERG: Naomi Weinberg, 09:44:03</p> <p>10 Osen LLC, also on behalf of the 09:44:04</p> <p>11 Strauss Plaintiffs. 09:44:06</p> <p>12 MR. LUFT: Avram Luft of Credit 09:44:07</p> <p>13 Lyonnais -- excuse me, of Cleary 09:44:14</p> <p>14 Gottlieb Steen &amp; Hamilton, on behalf 09:44:14</p> <p>15 of Credit Lyonnais. 09:44:16</p> <p>16 MR. GIBBON: Brendan Gibbon with 09:44:24</p> <p>17 Cleary Gottlieb Steen &amp; Hamilton, on 09:44:25</p> <p>18 behalf of Credit Lyonnais. 09:44:26</p> <p>19 MR. GRUBE: Mark Grube with</p> <p>20 Cleary Gottlieb Steen &amp; Hamilton, on</p> <p>21 behalf of Credit Lyonnais.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

2 (Pages 2 to 5)

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<p style="text-align: right;">138</p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 which is my field, and I would say I have 12:34:21</p> <p>3 treated many others in the past with your 12:34:23</p> <p>4 affliction. 12:34:30</p> <p>5 And the patient said, but my 12:34:31</p> <p>6 name is Anderson. How many Andersons 12:34:33</p> <p>7 have you treated. 12:34:36</p> <p>8 And I would say, I don't know 12:34:37</p> <p>9 how many Andersons I treated, perhaps 12:34:38</p> <p>10 none, but the affliction you're 12:34:41</p> <p>11 describing is something that I have dealt 12:34:45</p> <p>12 with. 12:34:48</p> <p>13 Turn the page to the issue at 12:34:49</p> <p>14 hand. Hamas is not an extraterrestrial 12:34:51</p> <p>15 organization. Hamas is a terrorist 12:34:55</p> <p>16 organization. It is a Palestinian 12:34:58</p> <p>17 organization. And this is what I have 12:35:00</p> <p>18 spent my entire professional life with, 12:35:01</p> <p>19 dealing with terrorist organizations. 12:35:07</p> <p>20 And also the very difficult issue of 12:35:09</p> <p>21 attributing culpability, responsibility, 12:35:11</p> <p>22 for terrorist actions because this is 12:35:15</p> <p>23 often a key element, an analysis, because 12:35:18</p> <p>24 often this is the basis for policy. This 12:35:24</p> <p>25 is the basis for military action. This 12:35:28</p>	<p style="text-align: right;">140</p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 back. 12:36:41</p> <p>3 Q. How much of your professional 12:36:41</p> <p>4 life -- do you know when Hamas came into 12:36:43</p> <p>5 existence? 12:36:45</p> <p>6 A. Yes. 12:36:45</p> <p>7 Q. When? 12:36:46</p> <p>8 A. In the 1980s. 12:36:47</p> <p>9 Q. Do you know what year? 12:36:48</p> <p>10 A. Roughly 1984. 12:36:49</p> <p>11 Q. 1984, okay. And since 1984, 12:36:50</p> <p>12 how much of your professional life has 12:36:57</p> <p>13 been devoted to specifically studying 12:36:59</p> <p>14 Hamas? 12:37:03</p> <p>15 A. I wouldn't be able to offer a 12:37:04</p> <p>16 specific percentage, but it would be a 12:37:08</p> <p>17 small percentage. 12:37:10</p> <p>18 Q. You ever publish anything 12:37:11</p> <p>19 specific about Hamas? 12:37:12</p> <p>20 A. I have not. 12:37:13</p> <p>21 Q. Have you ever lectured, 12:37:14</p> <p>22 specifically, about Hamas? 12:37:16</p> <p>23 A. Not specifically about Hamas, 12:37:20</p> <p>24 no. 12:37:22</p> <p>25 Q. Ever done a study of, any kind 12:37:22</p>
<p style="text-align: right;">139</p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 is the basis for sanctions. 12:35:29</p> <p>3 And so this is an area of which 12:35:32</p> <p>4 I am often called upon to deal with. 12:35:35</p> <p>5 Now, it's not as if somebody 12:35:37</p> <p>6 said have you ever heard of Hamas. And I 12:35:40</p> <p>7 would say, Hamas, who are they. 12:35:43</p> <p>8 I know about Hamas. I know 12:35:46</p> <p>9 about the ideology of Hamas. Pretty fair 12:35:49</p> <p>10 understanding of the terrorist campaign 12:35:54</p> <p>11 of Hamas. 12:35:55</p> <p>12 And do you know about 12:35:58</p> <p>13 terrorists making claims? Well, at the 12:36:00</p> <p>14 risk of immodesty, I know a hell of a lot 12:36:07</p> <p>15 about terrorist claims. 12:36:12</p> <p>16 Q. How much of your professional 12:36:13</p> <p>17 life, if you can estimate by a 12:36:18</p> <p>18 percentage, has been devoted specifically 12:36:20</p> <p>19 to assessing Hamas? I'm not asking about 12:36:21</p> <p>20 terrorist organizations in general. I am 12:36:29</p> <p>21 talking about Hamas specifically. 12:36:31</p> <p>22 MR. LUFT: You know his 12:36:32</p> <p>23 professional life precedes Hamas, so 12:36:35</p> <p>24 the question is inherently misleading. 12:36:37</p> <p>25 MR. GLATTER: Let me take a step 12:36:39</p>	<p style="text-align: right;">141</p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 of study, empirical or otherwise, as to 12:37:25</p> <p>3 whether or not when Hamas claims 12:37:28</p> <p>4 responsibility for something, in fact, 12:37:29</p> <p>5 Hamas is considered to, in fact, be 12:37:32</p> <p>6 responsible for that act? You understand 12:37:35</p> <p>7 what I mean. As opposed to simply the 12:37:39</p> <p>8 fact that they said it, the fact that in 12:37:41</p> <p>9 the eyes of the relevant community they 12:37:43</p> <p>10 did it; you ever -- 12:37:45</p> <p>11 A. Specifically and exclusively on 12:37:47</p> <p>12 Hamas, no. 12:37:49</p> <p>13 Q. Specifically or exclusively 12:37:49</p> <p>14 done it for any particular terrorist 12:37:52</p> <p>15 organization? 12:37:54</p> <p>16 A. Good question. Have I done it 12:37:54</p> <p>17 specifically for terrorist -- on specific 12:38:04</p> <p>18 events, specific events. 12:38:10</p> <p>19 Q. But again, if I understand -- 12:38:14</p> <p>20 MR. LUFT: Were you done 12:38:15</p> <p>21 answering? 12:38:16</p> <p>22 A. Specific events. There are 12:38:16</p> <p>23 numerous cases in which the attribution 12:38:21</p> <p>24 of an event, claimed or unclaimed, 12:38:24</p> <p>25 becomes a critical component. 12:38:28</p>

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<p style="text-align: right;"><b>154</b></p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 Hamas emerged from the Muslim 12:52:05</p> <p>3 brothers and represented a current of 12:52:13</p> <p>4 thought that was like the Islamist 12:52:16</p> <p>5 brothers, more Islamist in its 12:52:20</p> <p>6 perspective, but was going to take a more 12:52:27</p> <p>7 -- going to launch a more aggressive -- 12:52:31</p> <p>8 follow a more aggressive policy than the 12:52:36</p> <p>9 traditional Muslim Brotherhood. 12:52:38</p> <p>10 Q. Are there any specific 12:52:41</p> <p>11 organizations in the PACT, the 12:52:44</p> <p>12 Palestinian -- the West Bank or Gaza 12:52:48</p> <p>13 Strip, that, to your knowledge, were 12:52:52</p> <p>14 predecessor institutions to Hamas? 12:52:53</p> <p>15 A. Predecessor? 12:52:55</p> <p>16 Q. Or founding institutions. Do 12:52:57</p> <p>17 you know of any? 12:52:59</p> <p>18 A. Again, I would go back to -- I 12:53:00</p> <p>19 would go back to the Muslim Brotherhood. 12:53:04</p> <p>20 Are we -- predecessors. Hamas actually 12:53:09</p> <p>21 began, as it launched its campaign, to 12:53:13</p> <p>22 draw in people, including people who had 12:53:19</p> <p>23 been members of other Palestinian 12:53:22</p> <p>24 organizations. It also initially formed 12:53:26</p> <p>25 alliances with other Palestinian 12:53:31</p>	<p style="text-align: right;"><b>156</b></p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 Exhibit 6, please. 12:55:02</p> <p>3 [The photograph was hereby</p> <p>4 marked as Jenkins Exhibit 6 for</p> <p>5 identification, as of this date.] 12:55:25</p> <p>6 Q. Mr. Jenkins, I put a photograph 12:55:25</p> <p>7 in front of you that we marked as Jenkins 12:55:27</p> <p>8 Exhibit 6. 12:55:29</p> <p>9 Do you recognize the individual 12:55:30</p> <p>10 in that photograph? 12:55:31</p> <p>11 A. Another gentleman with a beard. 12:55:36</p> <p>12 MR. LUFT: Objection. 12:55:38</p> <p>13 Foundation. Beyond the scope of his 12:55:39</p> <p>14 report. 12:55:40</p> <p>15 A. I don't. 12:55:46</p> <p>16 Q. Mr. Jenkins, I will write it 12:55:47</p> <p>17 out. Do you know what or who Marj al 12:55:53</p> <p>18 Zahur is? M-A-R-J, A-L, Z-A-H-U-R. 12:55:58</p> <p>19 A. I cannot recall. 12:56:13</p> <p>20 Q. Can you turn to Page 13 of your 12:56:14</p> <p>21 report. Are you at that page? 12:56:29</p> <p>22 A. I am at that page. 12:56:40</p> <p>23 Q. I am looking at the third line 12:56:41</p> <p>24 of the first paragraph which discusses 12:56:42</p> <p>25 the August 19th, 2003 bombing of a number 12:56:44</p>
<p style="text-align: right;"><b>155</b></p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 organizations, although it did not -- it 12:53:35</p> <p>3 remained aloof from the Palestinian 12:53:39</p> <p>4 authority while it was led by Arafat. 12:53:44</p> <p>5 Q. Can you tell me what al-jamia 12:53:49</p> <p>6 al-islamia is? 12:53:54</p> <p>7 A. Al-jamia al-islamia, actually 12:53:54</p> <p>8 JI, refers to a group, either -- there 12:53:58</p> <p>9 are several that use that term. That's a 12:54:04</p> <p>10 common term. There is a group in Egypt 12:54:06</p> <p>11 that use the term. And there is a group 12:54:09</p> <p>12 in Indonesia that uses the term. 12:54:11</p> <p>13 Q. Are you familiar with any 12:54:14</p> <p>14 organization by that name in the 12:54:15</p> <p>15 Palestinian territories today? 12:54:17</p> <p>16 A. The name has appeared in 12:54:19</p> <p>17 Palestinian territory, as well. As I 12:54:21</p> <p>18 say, it is a common construction. It 12:54:23</p> <p>19 appears in several countries. 12:54:25</p> <p>20 Q. Do you know if it has any 12:54:26</p> <p>21 connection to Hamas? 12:54:28</p> <p>22 A. It may have. 12:54:30</p> <p>23 Q. But you don't know? 12:54:30</p> <p>24 A. Don't know. 12:54:31</p> <p>25 MR. GLATTER: Mark this as 12:55:01</p>	<p style="text-align: right;"><b>157</b></p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 2 bus. Do you see that sentence? 12:56:47</p> <p>3 A. Yes, I do. 12:56:49</p> <p>4 Q. And you write two lines down 12:56:50</p> <p>5 "The bomber was said to have been 12:56:54</p> <p>6 retaliating for the assassination of a 12:56:58</p> <p>7 personal friend, but was disowned and 12:57:00</p> <p>8 denounced by the official leadership that 12:57:02</p> <p>9 proclaimed its commitment to the truce." 12:57:04</p> <p>10 Do you see that? 12:57:07</p> <p>11 A. I see that print, yes. 12:57:08</p> <p>12 Q. I may have some other questions 12:57:10</p> <p>13 for you about the August 19th bombing 12:57:12</p> <p>14 later, but for now, my question is: Do 12:57:14</p> <p>15 you know who the personal friend is 12:57:16</p> <p>16 reported to be? 12:57:17</p> <p>17 A. I understand, as my 12:57:18</p> <p>18 recollection is that the personal friend 12:57:20</p> <p>19 may also have been another Hamas 12:57:22</p> <p>20 operative or a Hamas official. 12:57:25</p> <p>21 Q. Do you know what his name is? 12:57:29</p> <p>22 A. I don't recall. 12:57:30</p> <p>23 Q. Do you know anything else about 12:57:31</p> <p>24 him, other than the fact that he was 12:57:32</p> <p>25 another Hamas operative or official? 12:57:34</p>

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<p style="text-align: right;">158</p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 A. May have been, excuse me. 12:57:36</p> <p>3 Q. May have been? 12:57:43</p> <p>4 A. May have been. 12:57:44</p> <p>5 Q. Do you know who Yaya Ayyash is? 12:57:46</p> <p>6 I am going to spell it, as follows, 12:57:53</p> <p>7 reserving the rights because of the 12:57:54</p> <p>8 Arabic: Y-A-Y-A, that's the first name. 12:57:56</p> <p>9 A-Y-Y-A-S-H. It might also sometimes, 12:58:03</p> <p>10 sound likes Yaya Ayyash. 12:58:10</p> <p>11 A. Yes, I heard that name, but at 12:58:15</p> <p>12 this moment, I can't recall. 12:58:17</p> <p>13 Q. Is there anything you know 12:58:21</p> <p>14 about him? 12:58:22</p> <p>15 A. I am not recalling anything at 12:58:23</p> <p>16 this moment. 12:58:25</p> <p>17 Q. Okay. Do you know who Hamas's 12:58:25</p> <p>18 chief spokesperson is reported to be in 12:58:31</p> <p>19 Lebanon? 12:58:33</p> <p>20 MR. LUFT: When, today? 12:58:33</p> <p>21 Q. During the Second Intifada? 12:58:35</p> <p>22 A. Talking about the spokesperson, 12:58:38</p> <p>23 we're talking Mashaal? 12:58:41</p> <p>24 Q. I am just asking -- 12:58:43</p> <p>25 A. The one that I know of that 12:58:44</p>	<p style="text-align: right;">160</p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 translations of documents from Arabic? 12:59:45</p> <p>3 A. I do. 12:59:47</p> <p>4 Q. Is there anybody who assists 12:59:47</p> <p>5 you -- do you have anyone -- strike that. 12:59:51</p> <p>6 What translations do you read, 12:59:55</p> <p>7 or are they ones that are specifically 12:59:56</p> <p>8 created for you or ones created by MEMRI? 12:59:59</p> <p>9 A. There would be a variety of 13:00:02</p> <p>10 sources. In some cases they are the ones 13:00:04</p> <p>11 that are conveniently available through 13:00:07</p> <p>12 MEMRI. The U.S. Government has a, an 13:00:10</p> <p>13 internal service that translates 13:00:16</p> <p>14 documents pertaining to terrorism, that I 13:00:23</p> <p>15 will look at those. 13:00:30</p> <p>16 In some cases, in some cases, 13:00:31</p> <p>17 and this refers not to Hamas, but in some 13:00:34</p> <p>18 cases statements by Osama bin Laden, or 13:00:37</p> <p>19 Zawahiri or some of the other leaders, I 13:00:42</p> <p>20 will ask for a specific translation, 13:00:46</p> <p>21 because there may be nuances that are not 13:00:48</p> <p>22 always carried in the actual -- in the 13:00:56</p> <p>23 normal translation I may really want to 13:01:04</p> <p>24 understand, what -- there may be some 13:01:06</p> <p>25 color phrase or something -- what does 13:01:11</p>
<p style="text-align: right;">159</p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 speaks frequently on their behalf is 12:58:46</p> <p>3 Mashaal. 12:58:48</p> <p>4 Q. Do you know what the al Majd 12:58:49</p> <p>5 is? A-L, M-A-J-D. 12:58:51</p> <p>6 A. Well, the al Majd can -- again, 12:58:55</p> <p>7 it's a common term that appears 12:58:58</p> <p>8 regularly. There are al Majds and al 12:59:00</p> <p>9 Majds and al Majds. 12:59:04</p> <p>10 Q. Sure. Let me withdraw the 12:59:06</p> <p>11 question and put another one to you. 12:59:07</p> <p>12 Does the name or phrase al Majd 12:59:08</p> <p>13 have any particular significance to you 12:59:11</p> <p>14 in connection with Hamas? 12:59:13</p> <p>15 A. I don't speak Arabic, but there 12:59:15</p> <p>16 is a, I have certainly seen the term, but 12:59:21</p> <p>17 there is one of these terms that occurs 12:59:29</p> <p>18 regularly like shura or ruling council or 12:59:32</p> <p>19 al-maji. I am not going to pronounce 12:59:35</p> <p>20 these correctly, forgive me. 12:59:36</p> <p>21 Q. You said you do not speak 12:59:38</p> <p>22 Arabic? 12:59:40</p> <p>23 A. I do not. 12:59:40</p> <p>24 Q. Let me just detour for one 12:59:41</p> <p>25 second. Do you have occasions to review 12:59:42</p>	<p style="text-align: right;">161</p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 that really mean, what does that really 13:01:14</p> <p>3 say, what does that conjure up. 13:01:15</p> <p>4 So in some cases, I will 13:01:17</p> <p>5 request through RAND's research library, 13:01:19</p> <p>6 can you get me a really more textual, 13:01:22</p> <p>7 more detailed translation of this. 13:01:27</p> <p>8 Q. Okay. 13:01:31</p> <p>9 A. So variety. 13:01:32</p> <p>10 Q. In connection with your work at 13:01:33</p> <p>11 MTI, the Mineta Transportation Institute, 13:01:34</p> <p>12 do they provide translation? 13:01:38</p> <p>13 A. The work at MTI, we have not 13:01:43</p> <p>14 used material, we have not needed to use 13:01:45</p> <p>15 material from Arabic. 13:01:50</p> <p>16 Q. I think I probably know the 13:01:51</p> <p>17 answer to this, but do you speak or read 13:01:53</p> <p>18 Hebrew? 13:01:55</p> <p>19 A. No, I do not. 13:01:55</p> <p>20 Q. In drafting and finalizing your 13:01:57</p> <p>21 report, did you review the materials in 13:02:00</p> <p>22 any of the appendices to Plaintiffs' 13:02:06</p> <p>23 experts' reports? 13:02:10</p> <p>24 A. I looked at some of it, yes. 13:02:10</p> <p>25 Q. Do you remember which ones you 13:02:12</p>

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<p style="text-align: right;"><b>166</b></p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 Q. Can you name for me any major 13:07:42</p> <p>3 Qassam Brigades cells that operated in 13:07:46</p> <p>4 Israel of the Palestinian territories 13:07:49</p> <p>5 during the Second Intifada? 13:07:52</p> <p>6 MR. LUFT: Objection. Vague. 13:07:54</p> <p>7 A. There were various cells. The 13:07:58</p> <p>8 way it was structured is there were 13:07:59</p> <p>9 regional commands in Hebron, for example. 13:08:05</p> <p>10 And I don't know how many regional 13:08:13</p> <p>11 commands there were. I think there were 13:08:15</p> <p>12 probably somewhere between four and six. 13:08:17</p> <p>13 There were regional commands. And then 13:08:19</p> <p>14 within that there were cells that would 13:08:21</p> <p>15 operate -- the cells would operate, or 13:08:28</p> <p>16 they would receive broad instructions 13:08:33</p> <p>17 from the command. The cells operated 13:08:36</p> <p>18 independently to carry out specific, 13:08:39</p> <p>19 specific attacks. 13:08:44</p> <p>20 Q. Do you know the names of any of 13:08:45</p> <p>21 those cells? 13:08:47</p> <p>22 A. I mean, I've heard of them 13:08:47</p> <p>23 referred to as Hebron, Hebron cell, as an 13:08:50</p> <p>24 example. Do I know the names of all of 13:08:54</p> <p>25 the cells? No, I don't. 13:08:55</p>	<p style="text-align: right;"><b>168</b></p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 name is, of an individual is relevant, 13:10:19</p> <p>3 and often it's not, but it has to be in a 13:10:22</p> <p>4 specific context of that. But will I 13:10:27</p> <p>5 necessarily remember the name of this 13:10:29</p> <p>6 particular person and that particular 13:10:32</p> <p>7 person, often not. 13:10:34</p> <p>8 Q. Okay. Do you know who the 13:10:35</p> <p>9 Palestinian prime minister, the Hamas's 13:10:38</p> <p>10 prime minister is? 13:10:44</p> <p>11 MR. LUFT: Today? 13:10:44</p> <p>12 MR. GLATTER: Today, yes. 13:10:52</p> <p>13 Q. Again, either it is -- the 13:10:52</p> <p>14 prime minister, I thought the prime 13:10:57</p> <p>15 minister and spokesman is Mashaal or 13:10:58</p> <p>16 Marzouk, but I am not certain, no. 13:11:12</p> <p>17 MR. GLATTER: Mark this as 7. 13:11:31</p> <p>18 [The photograph was hereby</p> <p>19 marked as Jenkins Exhibit 7 for</p> <p>20 identification, as of this date.] 13:11:57</p> <p>21 MR. LUFT: Out of curiosity, 13:11:57</p> <p>22 just for housekeeping, these pictures 13:11:58</p> <p>23 that you've shown, five, six or seven, 13:12:00</p> <p>24 are they Bates stamped or do they come 13:12:02</p> <p>25 to any appendices of the report? 13:12:04</p>
<p style="text-align: right;"><b>167</b></p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 13:08:57</p> <p>3 THE WITNESS: Can I -- 13:08:58</p> <p>4 MR. GLATTER: Yes. Anytime you 13:08:59</p> <p>5 need a break. 13:09:00</p> <p>6 MR. LUFT: Let me just pour some 13:09:01</p> <p>7 water for him. 13:09:03</p> <p>8 THE WITNESS: I don't need a 13:09:06</p> <p>9 break. It's just voice. 13:09:06</p> <p>10 BY MR. GLATTER: 13:09:15</p> <p>11 Q. Do you know who Raed or Raed 13:09:15</p> <p>12 Salah is, R-A-E-D, S-A-L-A-H? To 13:09:25</p> <p>13 clarify, does that have any significance 13:09:26</p> <p>14 for you in connection with regard to 13:09:30</p> <p>15 Hamas? 13:09:32</p> <p>16 A. The answer is no. And I am 13:09:33</p> <p>17 admittedly, I am admittedly terrible on 13:09:34</p> <p>18 Arab names. I mean, I look at, I look at 13:09:40</p> <p>19 these things all the time and, I don't 13:09:47</p> <p>20 mean this as any sort of an insult to the 13:09:50</p> <p>21 Arab population, but I see hundreds and 13:09:53</p> <p>22 hundreds of Arab names, and Abuls, and 13:10:00</p> <p>23 Abduls and Ahmad, and quite frankly, in 13:10:06</p> <p>24 many cases, in my own research in looking 13:10:14</p> <p>25 at this, to the extent that a specific 13:10:17</p>	<p style="text-align: right;"><b>169</b></p> <p>1 BRIAN MICHAEL JENKINS</p> <p>2 MR. GLATTER: Not to my 13:12:07</p> <p>3 knowledge. 13:12:07</p> <p>4 MR. LUFT: These aren't from the 13:12:07</p> <p>5 report? 13:12:08</p> <p>6 MR. GLATTER: No, I don't think 13:12:09</p> <p>7 so. I assume if they had been, they 13:12:10</p> <p>8 would probably have a -- I don't 13:12:12</p> <p>9 remember what the numbering was for 13:12:16</p> <p>10 the appendices, but I have to be 13:12:17</p> <p>11 honest, I can't tell you, sitting here 13:12:19</p> <p>12 today. 13:12:21</p> <p>13 MR. LUFT: That's what I was 13:12:22</p> <p>14 trying to figure out, okay. 13:12:23</p> <p>15 BY MR. GLATTER: 13:12:23</p> <p>16 Q. Before I ask you about Exhibit 13:12:23</p> <p>17 7, Mr. Jenkins, you testified a couple of 13:12:25</p> <p>18 moments ago about your recollections of 13:12:31</p> <p>19 the structure of the Qassam Brigades? 13:12:35</p> <p>20 A. Yes. 13:12:40</p> <p>21 Q. All I want to ask you is: Do 13:12:40</p> <p>22 you recall whether or not one of 13:12:44</p> <p>23 Plaintiffs' experts described the command 13:12:45</p> <p>24 structure of the Qassam Brigades? 13:12:48</p> <p>25 A. I think they did in general 13:12:50</p>

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**EXHIBIT 158 to Declaration of Joel Israel**





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**Incident Detail**

Jan 29, 2004  
Jerusalem, Israel  
 Hamas (Islamic Resistance Movement)

Weapon type: Explosives  
Injuries: 50  
Fatalities: 11

A suicide bomber blew up a bus near the prime minister's residence, killing ten bystanders and wounding at least fifty. Prime Minister Sharon was not home at the time of the bombing. The al-Aqsa Martyrs Brigades claimed responsibility for the attack. Hamas has also claimed responsibility for the bombing and denounced al-Aqsa. Hamas has also sent a picture of the suicide bomber to the media to verify their claim.

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10/13/2011



**EXHIBIT 159 to Declaration of Joel Israel**

*TZVI WEISS VS.  
NATIONAL WESTMINSTER BANK, PLC*

---

*CLIVE WALKER  
June 14, 2011*

---

***Ellen Grauer***  
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*Original File 96688.TXT  
Min-U-Script® with Word Index*

Page 1

1 UNITED STATES DISTRICT COURT  
 2 EASTERN DISTRICT OF NEW YORK  
 3 -----x  
 4 TZVI WEISS, et al.,  
 5 Plaintiffs,  
 6 -against-  
 7 NATIONAL WESTMINSTER BANK, PLC,  
 8 Defendants.  
 9 -----x  
 10 NATAN APPLEBAUM, et al.,  
 11 Plaintiffs,  
 12 -against-  
 13 NATIONAL WESTMINSTER BANK, PLC,  
 14 Defendants.  
 15 -----x  
 16 One Liberty Plaza  
 17 New York, New York  
 18 June 14, 2011  
 19 9:29 a.m.  
 20 Videotaped Deposition of CLIVE WALKER,  
 21 pursuant to Notice, before Sophie Nolan, a  
 22 Notary Public of the State of New York.  
 23 ELLEN GRAUER COURT REPORTING CO. LLC  
 24 126 East 56th Street, Fifth Floor  
 25 New York, New York 10022  
 212-750-6434  
 Ref: 96688

Page 2

1 A P P E A R A N C E S:  
 2  
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 19 FAX 212-225-3999  
 20 E-MAIL lfriedman@cgsh.com  
 21  
 22 ALSO PRESENT:  
 23 DANIEL MACOM, Legal Videographer  
 24  
 25

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 2 WITNESS EXAMINATION BY PAGE  
 3 CLIVE WALKER MR. FRIEDMAN 7  
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 6 ----- E X H I B I T S -----  
 7 WALKER DESCRIPTION FOR I.D.  
 8 Exhibit 1 Expert report of Clive 8  
 9 Walker  
 10 Exhibit 2 Expert Declaration of Clive 22  
 11 Walker  
 12 Exhibit 3 Document Bates stamped 23  
 13 Walker 000001 through  
 14 Walker 000002  
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 17 Walker 000004  
 18 Exhibit 5 Document Bates stamped 27  
 19 Walker 000005 through  
 20 Walker 000005  
 21 Exhibit 6 Copy of book entitled 49  
 22 Terrorism and the Law  
 23 Exhibit 7 William & Mary Law Review 58  
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 25

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 2 WALKER DESCRIPTION FOR I.D.  
 3 Exhibit 8 Book entitled Blackstone's 68  
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 17 Exhibit 15 Document entitled "Charities 98  
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 22 Exhibit 17 Document entitled, "Charity 107  
 23 Commission Operational  
 24 Guidance on Charities and  
 25 Terrorism"

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1	----- E X H I B I T S (Cont'd) -----	
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3	Exhibit 19	May 12, 2009 Hansard House 111
4		of Commons debate
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16		website
17	Exhibit 27	Prints from the website of 129
18		the Association of Chief
19		Police Officers
20		
21		
22	(EXHIBITS TO BE PRODUCED)	
23		
24		
25		

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1	PROCEEDINGS
2	THE VIDEOGRAPHER: This is tape
3	one. We're now on the record. The time
4	is 9:29 a.m. Today is Tuesday, June 14,
5	2011. This is the opening of the
6	deposition of Mr. Clive Walker in the
7	matter of Tzvi Weiss et al versus
8	National Westminster Bank PLC and also
9	Natan Applebaum, et al versus National
10	Westminster Bank PH C.
11	This deposition is being held at
12	the offices of Cleary, Gottlieb, Steen &
13	Hamilton, which is located at One Liberty
14	Plaza in New York, New York.
15	Our court reporter today is
16	Ms. Sophie Nolan with Ellen Grauer Court
17	Reporting. I'm the legal videographer,
18	Dan Macom, also with Ellen Grauer Court
19	Reporting.
20	Would counsels please introduce
21	themselves.
22	MR. ISRAEL: Joel Israel with
23	Sayles Werbner here on behalf of the
24	plaintiffs.
25	MR. FRIEDMAN: Lawrence Friedman,

Page 7

1	of Cleary Gottlieb Steen & Hamilton on
2	behalf of Nat West. With me are my
3	colleagues, Valerie Schuster and David
4	Levy and Andra Prutu, a summer associate.
5	THE VIDEOGRAPHER: Will the court
6	reporter please swear in the witness.
7	CLIVE WALKER, called as a witness,
8	having been first duly sworn, was
9	examined and testified as follows:
10	
11	EXAMINATION BY
12	MR. FRIEDMAN:
13	Q. Good morning, Professor Walker.
14	A. Good morning.
15	Q. Have you ever had your deposition
16	taken before?
17	A. No.
18	Q. I will be asking you a series of
19	questions today and I will do my best to make
20	my questions as clear and understandable as I
21	can.
22	If at any time you wish for me to
23	repeat or rephrase one of my questions or to
24	explain to you what I mean by a question,
25	please let me know and I'll do my best to

Page 8

1	WALKER
2	oblige.
3	Otherwise, the record will reflect
4	that you understood my question and that you
5	are answering it accordingly. Is that
6	acceptable?
7	A. Yes, that's fine.
8	Q. Let me show you what the reporter
9	has marked as Exhibit 1 and I'll ask you to
10	identify that as your report in these cases.
11	A. Thank you.
12	(Exhibit 1, expert report of Clive
13	Walker, marked for Identification.)
14	A. Yes, it looks fine. It looks like
15	the report I submitted.
16	Q. And your signature appears on page
17	23?
18	A. Yes, that's correct.
19	Q. Is there anything in this report
20	that you now believe to be incorrect?
21	A. I think the only thing I'd say is
22	that I have continued to research into this
23	matter and there is further information which I
24	now have which I didn't have at the time when I
25	wrote the report.

Page 33

1 WALKER  
 2 Q. You've looked at secondary sources  
 3 concerning the relationship between Nat West  
 4 and Interpal?  
 5 A. Yeah, concerning the litigation and  
 6 this type of litigation.  
 7 Q. Well, let's focus first on this  
 8 litigation. What secondary sources have you  
 9 looked at?  
 10 A. I've looked at academic articles,  
 11 web pages.  
 12 Q. Okay. What academic articles?  
 13 A. I've looked at academic articles  
 14 which relate to the financing of charities and  
 15 books which -- sorry the financing of  
 16 terrorism --  
 17 Q. Sorry, we're at cross-purposes  
 18 again.  
 19 A. Okay.  
 20 Q. What academic articles have you  
 21 read concerning the facts of these cases, if  
 22 any?  
 23 A. I would have to -- I would have to  
 24 check. I can't say that there is an academic  
 25 article which has as its title this litigation.

Page 34

1 WALKER  
 2 What I would say is there have been a number of  
 3 academic articles which have mentioned this  
 4 litigation, as I say, alongside other  
 5 litigation against other banks of a similar  
 6 nature to this litigation.  
 7 Q. Now, you said you looked at web  
 8 pages.  
 9 A. Yeah.  
 10 Q. Have you looked at any web pages  
 11 that have educated you on the facts of the  
 12 relationship between Nat West and Interpal?  
 13 A. I'm not sure what you mean by  
 14 "educated." I mean, everything one reads one  
 15 sees a point of view, but I would say, if this  
 16 helps you, that reading the details of the  
 17 court documentation plus the details of the  
 18 Charity Commission reports I would say is my  
 19 prime source of information.  
 20 Q. Okay. But you referred earlier to  
 21 web pages and that, in fact, was the subject of  
 22 my question.  
 23 A. Yeah, sure.  
 24 Q. If you could just stick with my  
 25 question.

Page 35

1 WALKER  
 2 A. Yeah.  
 3 Q. Have you learned anything from any  
 4 web pages concerning the facts of this case,  
 5 these cases?  
 6 A. I can't say that I've learned  
 7 anything new. I've --  
 8 Q. What court --  
 9 A. I've learned probably more people's  
 10 opinions than facts about the case.  
 11 Q. What court papers did plaintiffs  
 12 give you? Did they give you the complaint?  
 13 A. I think so. My hesitation is  
 14 because this goes back to 2006 and I haven't  
 15 closely reviewed the papers since that time. I  
 16 had a number of court papers, probably the  
 17 complaint and the -- some of the pleadings at  
 18 that time in 2006.  
 19 Q. Have you received any court papers  
 20 from plaintiffs counsel since 2006?  
 21 A. The papers I've received are the  
 22 reports by Mr. Holland, Mr. Burchfield and the  
 23 deposition. Are they not court papers?  
 24 Q. Professor Walker, the deposition  
 25 will go a lot faster if you just try to focus

Page 36

1 WALKER  
 2 on my question.  
 3 A. I am trying to focus on your  
 4 question. If you could explain your question  
 5 it would help.  
 6 Q. Have you received any court papers  
 7 from plaintiffs counsel since 2006? I'm not  
 8 talking about the reports. I'm not talking  
 9 about the deposition.  
 10 Have you received any papers that  
 11 you understood were filed with the court since  
 12 2006?  
 13 A. Well, I would count the depositions  
 14 as court papers. I would count the expert  
 15 report as court papers, but aside from them the  
 16 answer is no.  
 17 Q. Okay. Now, I'd like you to look at  
 18 your CV that is attached to Exhibit 1 of your  
 19 report.  
 20 A. Sure.  
 21 Q. There's no indication here that you  
 22 purport to be an expert on the Charity  
 23 Commission; correct?  
 24 MR. ISRAEL: Objection to form.  
 25 Q. Is there any indication here that

1 WALKER  
 2 you purport to be an expert on the Charity  
 3 Commission?  
 4 A. Sorry, I heard an objection.  
 5 MR. ISRAEL: You can answer.  
 6 A. Okay. Am I an expert on the  
 7 Charity Commission --  
 8 Q. That's not what I asked you.  
 9 Please, Professor, I asked you --  
 10 A. Any indication.  
 11 Q. -- is there any indication in your  
 12 CV that you purported to be an expert on the  
 13 Charity Commission?  
 14 MR. ISRAEL: Objection to form.  
 15 A. There is evidence in the sense that  
 16 I purport to be an expert on the subject of  
 17 terrorism and the law and, as I indicated  
 18 earlier, this subjective terrorism and the law  
 19 is an expanding agenda. And after 9/11 it  
 20 became part of that agenda that charities may  
 21 be involved in terrorism and, therefore,  
 22 since -- particularly since 9/11, I have taken  
 23 an interest in the activities of the Charity  
 24 Commission and in my -- certainly in my most  
 25 recent books have mentioned this -- this issue.

1 WALKER  
 2 Q. Do you hold yourself to be an  
 3 expert on the Charity Commission?  
 4 MR. ISRAEL: Objection to form.  
 5 A. I would, again, repeat that if you  
 6 talk about the Charity Commission and its  
 7 dealings with suspected involvement in  
 8 terrorism finance, I think the answer is yes.  
 9 Q. Have you ever practiced as a lawyer  
 10 before the Charity Commission?  
 11 A. No.  
 12 Q. You were a clerk and a solicitor at  
 13 the law firm Emsley Collins & Co. from 1976 to  
 14 1978; correct?  
 15 A. Yes.  
 16 Q. And as a clerk, you were what we  
 17 would refer to as a trainee?  
 18 A. Yes.  
 19 Q. And as a solicitor, you were a  
 20 lawyer at that firm?  
 21 A. Briefly.  
 22 Q. What was the nature of the legal  
 23 work you did at that firm?  
 24 A. It was fairly varied. I was a new  
 25 boy, as it were, on the block and so I did lots

1 WALKER  
 2 of different work. I think the bulk of the  
 3 work that I ended up doing was in the field of  
 4 either civil litigation or what in Britain we  
 5 would call private client work, such as house  
 6 conveyance or wills, that kind of thing.  
 7 Q. Did you have any professional  
 8 experience with the Charity Commission while  
 9 you were at that firm?  
 10 A. No, no.  
 11 Q. Why did you leave that firm?  
 12 A. Sorry?  
 13 Q. Why did you leave that firm?  
 14 A. I had a strong inclination towards  
 15 academic work. This was with me whilst I was  
 16 at university and might be reflected in the  
 17 fact, though I say it myself, that I received a  
 18 first-class degree, which is just a degree of  
 19 impulsion to study.  
 20 I did consider at the end of my  
 21 degree going into post-graduate study doing a  
 22 Ph.D. and it was a kind of a flip of the coin  
 23 which I did first or which I preferred. I was  
 24 interested equally in doing some practice  
 25 because that is the, as it were -- the life of

1 WALKER  
 2 the law is practicing. That was potentially  
 3 interesting.  
 4 But having done two or three years  
 5 of practice, the -- as it were, the academic  
 6 side called me back and I began looking for  
 7 jobs in academic life to fulfill my greater  
 8 priority to satisfy my academic curiosity than  
 9 my practitioner curiosity.  
 10 Q. You practiced law for two to three  
 11 years?  
 12 A. Yes.  
 13 Q. You never practiced charity law?  
 14 A. Correct.  
 15 Q. You've never worked for the Charity  
 16 Commission?  
 17 A. Correct.  
 18 Q. And you've never appeared before  
 19 the Charity Commission as a lawyer?  
 20 A. Correct.  
 21 Q. Have you ever taught a course on  
 22 charity law?  
 23 A. I've taught the subject of equity  
 24 and trust, which I guess has much the same  
 25 meaning here as it does in the U.K. And as

Page 41

1 WALKER  
2 part of that course -- part of that course is  
3 about charities law.  
4 Q. When did you last teach that class?  
5 A. I taught it some 20 years ago, I  
6 think, would be the last time I taught that  
7 class.  
8 Q. Do you have a copy in your files of  
9 the syllabus for that course?  
10 A. No.  
11 Q. Have you ever worked for a British  
12 law enforcement agency?  
13 A. Yes, I think you could say I have.  
14 Q. What's that?  
15 A. I do work on an episodic basis for  
16 an organization called the Police National  
17 Legal Database.  
18 Q. What is the Police National Legal  
19 Database?  
20 A. The Police National Legal Database  
21 is an organization which seeks to compile a  
22 database of essentially legal material which is  
23 seen as relevant to operational police  
24 officers. And what they do is they try and  
25 provide explanations -- short explanations to

Page 42

1 WALKER  
2 operational police officers of issues such as  
3 the meaning of offenses, what recent cases  
4 might mean and the idea is that this is readily  
5 available online in police stations.  
6 Q. Is this a private, not-for-profit  
7 organization?  
8 A. No, it's a public organization. It  
9 is part of the -- I think it is now under the  
10 heading of the Association of Chief Police  
11 Officers, which is a national organization in  
12 England, Wales, which is publicly funded by the  
13 government.  
14 Q. And you've been employed by this  
15 national legal database?  
16 A. I've been engaged is --  
17 Q. Engaged for what?  
18 A. On the basis that I audit the  
19 accuracy of their legal statements.  
20 Q. Have you been paid for that work?  
21 A. Yeah -- well, again, it's a similar  
22 arrangement to what I'm doing now. The  
23 university has been paid. I haven't.  
24 Q. And during what years have you done  
25 that?

Page 43

1 WALKER  
2 A. Oh, it goes back a long time. I  
3 think it goes back to -- I don't know whether I  
4 mentioned this anywhere in my CV. It goes back  
5 to around about the mid-1990s I think is when  
6 it started and is kind of an open contract.  
7 They give me work as they feel the need for  
8 something to be audited.  
9 Q. And you mentioned the Police  
10 National Legal Database.  
11 A. Yes.  
12 Q. You mentioned another organization,  
13 the Association of National Police Chiefs.  
14 What is that called?  
15 A. The Association of Chief Police  
16 Officers. What I said was that -- that is now,  
17 I believe, the umbrella organization for the  
18 Police National Legal Database. I don't have  
19 any contact directly with the Association of  
20 Chief Police Officers.  
21 Q. Have you ever heard of a -- an  
22 agency within British law enforcement known as  
23 NCIS?  
24 A. Yes, I have, yes.  
25 Q. What does that acronym stand for?

Page 44

1 WALKER  
2 A. The National Criminal Intelligence  
3 Service.  
4 Q. And what about the NTFIU, have you  
5 ever heard of that?  
6 A. Yes, I have.  
7 Q. What does that acronym stand for?  
8 A. That's the National Terrorism  
9 Finance Investigation Unit.  
10 Q. Have you ever worked for NCIS?  
11 A. No.  
12 Q. SOCA?  
13 A. No.  
14 Q. NTFIU?  
15 A. No.  
16 Q. The FSA?  
17 A. No.  
18 Q. Special Branch?  
19 A. No.  
20 Q. The Anti-terrorist Squad?  
21 A. No.  
22 Q. Bank of England?  
23 A. No.  
24 Q. Her Majesty's Treasury?  
25 A. No.



<p style="text-align: right;">Page 45</p> <p>1 WALKER</p> <p>2 Q. Have you ever held a position at a</p> <p>3 commercial or a retail bank?</p> <p>4 A. No.</p> <p>5 Q. Have you ever taught any courses on</p> <p>6 banking law?</p> <p>7 A. Not -- again it's rather like the</p> <p>8 question you asked about teaching about</p> <p>9 charity. Not directly, not a standalone</p> <p>10 course, but as part of my teaching on terrorism</p> <p>11 laws, I do teach about how bankers have to deal</p> <p>12 with antiterrorism laws and regulations.</p> <p>13 Q. Have you ever -- so, if I asked you</p> <p>14 if you've ever taught a course on banking</p> <p>15 regulation, you'd give me the same answer?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. What course are you</p> <p>18 referring to?</p> <p>19 A. For example, I currently teach a</p> <p>20 course, two courses, both in undergraduate and</p> <p>21 post-graduate level, on -- which is entitled</p> <p>22 Terrorism and the Law.</p> <p>23 Q. So you currently teach that in an</p> <p>24 undergraduate version?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 47</p> <p>1 WALKER</p> <p>2 Q. Is there a different module outline</p> <p>3 for each class for each year or is there --</p> <p>4 A. It does vary over years. You know,</p> <p>5 sometimes an event occurs and you get</p> <p>6 interested in a particular subject sometimes.</p> <p>7 There's no great interest in that area that</p> <p>8 particular year. So it does vary year to year</p> <p>9 what is the precise outline, of course?</p> <p>10 Q. Do you have any professional</p> <p>11 training in banking regulation?</p> <p>12 A. Other than the training which goes</p> <p>13 back to when I became a solicitor, and for that</p> <p>14 purpose I had to undertake a number of courses</p> <p>15 at what was then called the Law Society's final</p> <p>16 exams which included a whole range of</p> <p>17 commercial experience, and also required me to</p> <p>18 take what were then called solicitor's accounts</p> <p>19 exams, where I had to learn how to keep proper</p> <p>20 accounts of my clients' transactions.</p> <p>21 Q. Other than that, you have no</p> <p>22 professional training in banking regulation;</p> <p>23 correct?</p> <p>24 A. Well, other than that, I would say</p> <p>25 I have training in terms of what I've learned</p>
<p style="text-align: right;">Page 46</p> <p>1 WALKER</p> <p>2 Q. And in a graduate version?</p> <p>3 A. Correct.</p> <p>4 Q. And do you have any course outlines</p> <p>5 or course syllabi for those courses?</p> <p>6 A. I do. Not with me, but I can</p> <p>7 certainly find them.</p> <p>8 Q. Just so we can be sure what --</p> <p>9 we're talking about the same document, how</p> <p>10 would you refer to those documents for those</p> <p>11 two classes?</p> <p>12 A. In terms of what I teach, I guess</p> <p>13 the title would be module outline -- module</p> <p>14 outline is the document which gives an idea of</p> <p>15 what -- what is taught.</p> <p>16 Q. And you have a module outline for</p> <p>17 each class, the undergraduate class and the</p> <p>18 graduate class?</p> <p>19 A. Yes, yes.</p> <p>20 Q. And when did you start teaching the</p> <p>21 undergraduate class?</p> <p>22 A. I think about five years ago, six</p> <p>23 years ago. I can't recall.</p> <p>24 Q. And the graduate class?</p> <p>25 A. They both started together.</p>	<p style="text-align: right;">Page 48</p> <p>1 WALKER</p> <p>2 as an academic which I would view as quite</p> <p>3 professional in the way that I approach any</p> <p>4 subject and learn about it. It's the same as</p> <p>5 what I've learned about terrorism.</p> <p>6 Q. Okay. I'd like you to look at the</p> <p>7 section of your CV beginning on page 25</p> <p>8 entitled "Principal Publications on Terrorism</p> <p>9 and Security," do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Which of these -- do any of these</p> <p>12 publications refer to the Charity Commission?</p> <p>13 MR. ISRAEL: Objection to form.</p> <p>14 A. I would believe that the,</p> <p>15 particularly the books regarding terrorism at</p> <p>16 the top of the list and especially the most</p> <p>17 recent two books, namely the Antiterrorism</p> <p>18 Legislation of 2009 and the Terrorism, the Law</p> <p>19 Book of 2011.</p> <p>20 I'm pretty sure certainly the</p> <p>21 latter, which as you can imagine I've just</p> <p>22 completed and, therefore, have better</p> <p>23 recollection of its content, although it is</p> <p>24 300,000 words, so I can't remember every last</p> <p>25 word of it, does refer to the Charity</p>



Page 53

1 WALKER  
 2 Q. Now, again, your reliance upon this  
 3 publication by the home office and HM Treasury  
 4 indicates that you consider that to be a  
 5 reliable authority; correct?  
 6 A. Yes. I would more, I think,  
 7 consider it to be an authoritative source  
 8 rather than necessarily reliable. They don't  
 9 give details as to their views. They are more  
 10 in terms of statements of policy rather than  
 11 evidence-based statements.  
 12 Q. So you consider -- you prefer to  
 13 say that you consider it to be an authoritative  
 14 source?  
 15 A. Yes, yes.  
 16 Q. Now, look at paragraph 3.2.11 of  
 17 your report on page 21 --  
 18 MR. ISRAEL: 22?  
 19 Q. I'm sorry, 22.  
 20 A. Right.  
 21 Q. You record here the same quotation  
 22 to this authoritative source that you also have  
 23 in your book; correct?  
 24 A. Yes, yes.  
 25 Q. And you believe it is accurate

Page 54

1 WALKER  
 2 that, as stated here, "The channeling of funds  
 3 by charities to terrorists is extremely rare";  
 4 correct?  
 5 A. I think you should see that in the  
 6 context of the fact that there are, I think,  
 7 around 160,000 charities and relatively few  
 8 cases or even allegations compared to the  
 9 figure of 160 so I think extremely rare --  
 10 160,000 and the number of allegations compared  
 11 to 160,000 is, therefore, I think, fairly  
 12 described as extremely rare.  
 13 Q. So you believe that the channeling  
 14 of funds by charities to terrorists is  
 15 extremely rare?  
 16 MR. ISRAEL: Objection to form,  
 17 asked and answered.  
 18 A. In the context that I've already  
 19 stated that there are around 160,000 charities,  
 20 but of course we should also understand that as  
 21 indeed the document -- the document in question  
 22 emphasizes, that one should see that in a risk  
 23 analysis, if you like, that there are clearly  
 24 some charities which are far more at risk than  
 25 others.

Page 55

1 WALKER  
 2 Q. Now, if you look at paragraph 9.96  
 3 of your book on page 410 you wrote as follows,  
 4 "The Charity Commission has responded by  
 5 publishing a counter-terrorism strategy which  
 6 applies zero tolerance to any connections to  
 7 prescribed organizations, support for terrorist  
 8 activity or the fostering of criminal  
 9 extremists. The Commission has put in place a  
 10 proactive monitoring unit and a  
 11 counter-terrorism team which forms part of the  
 12 intensive case work unit in compliance and  
 13 support, as well as issuing operational  
 14 guidance."  
 15 Do you see that?  
 16 A. Yes.  
 17 Q. And these sentences are almost  
 18 exactly the same as what you have in paragraph  
 19 3.1.9 -- 3.1.9 of your report on pages eight  
 20 and nine; correct?  
 21 A. Those particular sentences, yes,  
 22 although that may not be the full point of  
 23 3.1.9.  
 24 Q. And you believe this to be  
 25 accurate; correct?

Page 56

1 WALKER  
 2 A. It is accurate that the Charity  
 3 Commission has done these things; correct.  
 4 Q. Correct. I'd like you to look at  
 5 paragraph 9.9 further on in 9.96 --  
 6 A. Yeah.  
 7 Q. -- of your book. After you state  
 8 what the Charity Commission has done, you go on  
 9 to state, "Nevertheless a strong and vibrant  
 10 sector should be encouraged," referring to the  
 11 charity sector, "and this understanding stance  
 12 is welcome since 'a wholesale blight on the  
 13 provision of financial support for humanitarian  
 14 aid could fuel the destabilization of  
 15 struggling people abroad and enhance the appeal  
 16 of terrorist groups to these people.'"  
 17 That's what you have in paragraph  
 18 9.96 of your book; correct?  
 19 A. Correct.  
 20 Q. And that's almost exactly the same  
 21 as what you wrote in paragraph 3.1.10 on page  
 22 nine of your report; correct?  
 23 A. Correct.  
 24 Q. And in this sentence you quote from  
 25 a William & Mary Law Review article which you

Page 85

1 WALKER  
 2 answer in terms of has there been an article  
 3 that mentions these terms, I can't say for  
 4 sure, but I'm not aware of any.  
 5 However, if I could just -- if you  
 6 can just give me a minute, one of the -- I may  
 7 not have mentioned this article in the paper,  
 8 another academic author on the subject of  
 9 charities, he writes a great deal on the  
 10 subject, is a fellow called Peter Edge who's at  
 11 another U.K. university, and I do recollect him  
 12 using the terms "hard law" and "soft law" which  
 13 I think have some affinity with the type of  
 14 concept that I'm putting forward here.  
 15 He, as I say, would be viewed as a  
 16 leading academic author on charities law and  
 17 hard law/soft law could equate, to some extent,  
 18 to green light/red light.  
 19 Q. You think it's fair to characterize  
 20 what the Charity Commission does as soft law?  
 21 A. Yes, yes.  
 22 Q. And what is the publication by  
 23 Peter Edge to which you're referring?  
 24 A. I'm sorry, it's not referred to in  
 25 this paper, but I --

Page 86

1 WALKER  
 2 Q. But what is it?  
 3 A. Yeah, I can't remember the  
 4 reference. I can find you the reference very  
 5 easily if you need it. It is an academic paper  
 6 of recent origin. I would say the last five  
 7 years.  
 8 Q. Do you possess a copy of it?  
 9 A. I don't have a copy. I can easily  
 10 get one. I have recently read the paper, but I  
 11 can't remember the precise reference.  
 12 Q. And is he a reliable authority?  
 13 A. Sorry?  
 14 Q. Is he a reliable authority?  
 15 MR. ISRAEL: Objection to form.  
 16 A. He is a well-established academic  
 17 author. And so to that extent he is, as it  
 18 were, on an ad homonym basis he is a reliable  
 19 person. I can't vouch for every statement that  
 20 he makes.  
 21 Q. Well, you're testifying under oath  
 22 today.  
 23 A. Sure.  
 24 Q. And you just adopted a construct --  
 25 A. Yes.

Page 87

1 WALKER  
 2 Q. -- of hard law versus soft law --  
 3 A. Sure.  
 4 Q. -- of which you say he is the  
 5 author.  
 6 A. Yes.  
 7 Q. Do you view him as a reliable  
 8 authority? I assume so because you testified  
 9 to what he said today.  
 10 MR. ISRAEL: Same objection.  
 11 A. Sure. On the basis of his  
 12 analytical construct of hard law/soft law as  
 13 applied to the Charity Commission, I found his  
 14 arguments persuasive.  
 15 Q. Okay. Look at paragraph 3.1.7 of  
 16 your report. You state that, "The Charity  
 17 Commission's default stance seems to be --  
 18 seems to that of charity ally and not charity  
 19 policeman."  
 20 What is your basis for that? What  
 21 is your factual basis for that statement?  
 22 A. Sorry, there is a word missing I  
 23 see there. "Seems to be" it should say "that  
 24 of charity ally and not charity policeman."  
 25 The factual basis is -- of course

Page 88

1 WALKER  
 2 it says "in short" and so it's referring to the  
 3 description given in -- particularly in the  
 4 previous paragraph 316 of some cases that are  
 5 mentioned at that point.  
 6 Q. You're familiar with an entity  
 7 known as the Metropolitan Police Service;  
 8 correct?  
 9 A. Yes.  
 10 Q. That's the police force in London;  
 11 correct?  
 12 A. Correct.  
 13 (Exhibit 24, pages from the  
 14 Metropolitan Police Service website,  
 15 marked for Identification.)  
 16 Q. I'm going to show you what's been  
 17 marked as Exhibit 24, which I'll represent to  
 18 you are pages from the Metropolitan Police  
 19 Service website.  
 20 A. Yup.  
 21 Q. Do you have any reason to doubt  
 22 that this is from the Metropolitan Police  
 23 Service website?  
 24 MR. ISRAEL: Objection.  
 25 A. I would say that I've not seen

Page 97

1 WALKER  
2 enemy?  
3 MR. ISRAEL: Same objection.  
4 A. "Public as a whole" meaning --  
5 Q. The public as a whole.  
6 A. Including drug dealers?  
7 Q. Including the public as a whole.  
8 A. Including drug dealers, bank  
9 robbers?  
10 Q. Every person who walks the fair  
11 land of Great Britain, I want you in your mind  
12 to think of everyone who walks the land of  
13 Great Britain, do you think the Metropolitan  
14 Police Service regards that group as its enemy?  
15 MR. ISRAEL: Objection to form.  
16 Calls for speculation.  
17 A. Well, I think that in terms of the  
18 law abiding public, it certainly doesn't view  
19 itself as the enemy of the law abiding public,  
20 but in terms of the people who are being  
21 targeted such as drug dealers or indeed, you  
22 might say, terrorists, whilst Britain has not  
23 used the phraseology of War on Terror, I think  
24 it would not be unfair to characterize the  
25 Metropolitan Police as seeing drug dealers,

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1 WALKER  
2 terrorists as their enemy, but I would say that  
3 without relying upon the verbiage of the War on  
4 Terror which I know has American connotations.  
5 Q. You're associated with the Police  
6 National Legal Database?  
7 A. Yes.  
8 Q. Does the Police National Legal  
9 Database regard the British public as an enemy?  
10 MR. ISRAEL: Objection to form.  
11 A. I don't think it's expressed any  
12 views about -- it's primarily a database  
13 speaking to operational officers so it doesn't  
14 really have any direct contact with the British  
15 public.  
16 Q. It's there to serve the public,  
17 correct, through the police officers that it  
18 serves?  
19 A. Through the police, yes.  
20 (Exhibit 15, document entitled  
21 "Charities Back on Track 2007 to 2008,"  
22 marked for Identification.)  
23 Q. I'd like to show you what's been  
24 marked as Exhibit 15, which is a report issued  
25 by the Charity Commission entitled "Charities

Page 99

1 WALKER  
2 Back on Track 2007 to 2008."  
3 A. Right.  
4 Q. Did you ever see this before?  
5 A. I've seen this series, but I can't  
6 swear that I've seen this particular document.  
7 Q. I'll ask my question again.  
8 A. Sure.  
9 Q. Have you seen this document before?  
10 MR. ISRAEL: Objection, asked and  
11 answered.  
12 A. The series I'm familiar with. What  
13 I'm saying there is it is possible that I have  
14 seen this document because I have consulted  
15 this series of documents which appears each  
16 year called Back on Track and I've done -- part  
17 of my research has encompassed this series of  
18 documents called Back on Track. So it's  
19 possible that I've seen this before, but only  
20 as part of a wider piece of research. I'm not  
21 familiar with the details of it.  
22 Q. As you sit here today, do you  
23 recall seeing this document before?  
24 MR. ISRAEL: Same objection.  
25 A. I recall seeing documents called

Page 100

1 WALKER  
2 Back on Track. I'm not sure whether 2007 or  
3 '08 I recall or not.  
4 Q. So, as you sit here today, you do  
5 not recall seeing this?  
6 A. As I sit here today, I'm not sure  
7 because, as I say, there is recognition that I  
8 have accessed a series of documents called Back  
9 on Track. So it's not quite the black and  
10 white situation in that the document title is  
11 familiar to me. It's just a question of  
12 whether the particular date I've seen or not.  
13 I may have done, I may not have done.  
14 Q. This report includes, among other  
15 things, a summary of the Charity Commission's  
16 compliance work from April 2007 to March 2008;  
17 correct?  
18 A. Sorry, are you referring to a  
19 particular page here?  
20 Q. I'm referring to my question.  
21 MR. ISRAEL: Review the document.  
22 Q. This report summarizes, among other  
23 things, the Charity Commission's compliance  
24 work from April 2007 to March 2008; correct?  
25 I'll invite you to read the introduction to

Page 101

1 WALKER  
2 yourself which is on page two.  
3 A. Sorry?  
4 Q. I'll invite you to read the  
5 introduction in that document.  
6 A. This document?  
7 Q. That document, on page two.  
8 A. Right.  
9 Q. It has a picture of the three  
10 people at the bottom. Do you see it?  
11 A. Yeah, sure.  
12 Q. Do you want to read that  
13 introduction to yourself?  
14 A. (Reviewing.)  
15 Okay. Well, if I simply read this  
16 one sentence without having read the whole  
17 document, it would appear that they wish to set  
18 out in this document the "key themes and wider  
19 issues for charity arising from the  
20 Commission's compliance work from 2007 to  
21 2008." That's what the statement says.  
22 Q. Look at page 27.  
23 A. Okay.  
24 Q. You'll agree with me that according  
25 to this annex during this period of time there

Page 102

1 WALKER  
2 were 490 occasions when the Charity Commission  
3 used its compliance powers, including extensive  
4 use of information gathering powers; correct?  
5 A. Sorry, 490 the final figure on the  
6 table, yes?  
7 Q. Yes.  
8 A. Yes, yes.  
9 Q. And if you look at page 28, annex  
10 two, you'll see that across the horizontal axis  
11 of this chart in the second segment it lists  
12 the statutory powers exercised by the  
13 Commission during this period; correct?  
14 A. Correct.  
15 Q. And that includes issuing orders,  
16 directions -- and transactions for information  
17 for evidence; correct?  
18 A. Correct?  
19 Q. And that includes suspending  
20 trustees?  
21 A. Correct.  
22 Q. That includes removing trustees?  
23 A. Correct.  
24 Q. It includes freezing bank accounts?  
25 A. Yes.

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1 WALKER  
2 Q. It includes appointing interim  
3 managers?  
4 A. Yes.  
5 Q. And it includes other orders and  
6 schemes; correct?  
7 A. Yes.  
8 Q. And it includes other instances in  
9 which the Commission used no powers; correct?  
10 A. Correct.  
11 Q. I'd like you to look at 3.1.19 of  
12 your report. I'm sorry, 3.1.9 of your report.  
13 It's on page eight.  
14 A. Yes.  
15 Q. There in the second sentence you  
16 state that, "The Charity Commission has  
17 announced that threats to national security,  
18 including terrorism, amount to one of the most  
19 serious risks for charities," correct?  
20 A. Yes.  
21 Q. And then you go on to say, "As  
22 reflected in its published counter-terrorism  
23 strategy, these are issues where the Charity  
24 Commission applies zero tolerance to any  
25 connections to prescribed organizations,

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1 WALKER  
2 support for terrorist activity or the fostering  
3 of criminal extremism. The Commission has also  
4 put in place a proactive monitoring unit and a  
5 counter-terrorism team which forms part of the  
6 intensive case work unit in compliance and  
7 support as well as issuing operational  
8 guidance, OG 96 charities and terrorism."  
9 Do you see that?  
10 A. Correct, yes.  
11 Q. And that is all accurate, correct,  
12 what you wrote here?  
13 A. Yes, yes.  
14 (Exhibit 16, document entitled  
15 "Counter-terrorism Strategy July 2008,"  
16 marked for Identification.)  
17 Q. Now, let me show you what we marked  
18 as Exhibit 16, a publication of the Charity  
19 Commission entitled "counter-terrorism Strategy  
20 July 2008." This is the document that you  
21 refer to in paragraph 3.1.9 of your report;  
22 correct?  
23 A. Yes.  
24 Q. And this document, to your  
25 knowledge, accurately states the Charity

Page 113

1 WALKER  
 2 A. Yes.  
 3 Q. So during a period in May and July  
 4 and September of 2009, six years after the U.S.  
 5 designated or sanctioned Interpal, members of  
 6 Parliament were asking members of Her Majesty's  
 7 government about discussions between the  
 8 British authorities and the U.S. authorities  
 9 concerning the sanctioning of Interpal;  
 10 correct?  
 11 A. Yes.  
 12 MR. ISRAEL: I don't mean to  
 13 interrupt, Larry. I think I got the  
 14 wrong one. I have a Daily Telegraph  
 15 article.  
 16 MR. FRIEDMAN: Sorry, you got the  
 17 wrong one. We'll give it to you when we  
 18 break.  
 19 A. Sorry, I was interrupted. Could  
 20 you repeat your question?  
 21 Q. So this shows that during a period  
 22 spanning from May to July to September of 2009,  
 23 six years after the U.S. sanctioned Interpal,  
 24 members of Parliament were still asking British  
 25 authorities about their discussions with U.S.

Page 114

1 WALKER  
 2 authorities concerning Interpal; correct?  
 3 A. Yes.  
 4 Q. And as you sit here today, to your  
 5 understanding, Interpal has never been  
 6 sanctioned by the British government; correct?  
 7 A. Correct.  
 8 Q. Go back to your report. Look at  
 9 paragraph 3.1.25 on page 13. Could you read  
 10 that to yourself, please.  
 11 A. (Reviewing.)  
 12 Yes.  
 13 Q. Now, looking at the text of your  
 14 paragraph 3.1.25 on page 13 of your report, you  
 15 state that in paragraph D-3 of Mr. Burchfield's  
 16 report he concedes that the 2009 report of the  
 17 Charity Commission is arguably the most  
 18 thorough and comprehensive of all such  
 19 inquiries. Do you see that?  
 20 A. In my report?  
 21 Q. In your report.  
 22 A. Yes, yes.  
 23 Q. Let's look at paragraph D-3 of  
 24 Mr. Burchfield's report to which you refer  
 25 here. It's Exhibit 13. And it's on page 13 of

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1 WALKER  
 2 Mr. Burchfield's report.  
 3 A. Right, yes.  
 4 Q. And tell me where it is in this  
 5 paragraph that Mr. Burchfield concedes that the  
 6 2009 Charity Commission report is arguably the  
 7 most thorough and comprehensive?  
 8 A. I took that to be inherent in the  
 9 first sentence in paragraph D-3 to the effect  
 10 that it is a much more long-lasting inquiry  
 11 into the affairs of the charity. And by  
 12 "long-lasting" I would treat that, if I could  
 13 use the word synonym rather than antonym, as a  
 14 synonym for more thorough.  
 15 Q. And comprehensive?  
 16 A. And comprehensive indeed.  
 17 Q. So in your terminology, the term  
 18 "long-lasting" has the same meaning as the term  
 19 "the most thorough and comprehensive"?  
 20 A. I think in the -- I believed in the  
 21 context in which it was used in paragraph D03,  
 22 that that was a fair interpretation of the use  
 23 of that word. I wouldn't say it's necessarily  
 24 a fair interpretation in all contexts.  
 25 Q. Now, are you aware that Interpal's

Page 116

1 WALKER  
 2 accounts at Nat West were closed in March 2007?  
 3 A. I'm aware that they were closed. I  
 4 wasn't aware of the precise date.  
 5 Q. I'll represent to you, and I don't  
 6 think Joel will disagree --  
 7 A. Okay.  
 8 Q. -- that the accounts were closed in  
 9 March of 2007.  
 10 A. Okay.  
 11 Q. Taking that as a fact, you will  
 12 agree with me that Nat West did not have access  
 13 to the Charity Commission's 2009 report at any  
 14 time when Interpal had accounts at Nat West;  
 15 correct?  
 16 A. Correct.  
 17 Q. You'll agree with me that 2009 was  
 18 two years after 2007?  
 19 A. Indeed.  
 20 Q. Because Nat West closed the  
 21 accounts in 2007, it did not have an  
 22 opportunity to know what the Charity Commission  
 23 was going to say two years later in connection  
 24 with Nat West's management of the accounts;  
 25 correct?



**EXHIBIT 160 to Declaration of Joel Israel**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Case No. 05-CV-4622(DLI)(MDG)

-----x

TZVI WEISS, et al.,

Plaintiffs,

-against-

NATIONAL WESTMINSTER BANK, PLC,

Defendant.

-----x

Case No. 07-CV-916(DLI)(MDG)

NATHAN APPLEBAUM, et al.,

Plaintiffs,

-against-

NATIONAL WESTMINSTER BANK, PLC,

Defendant.

-----x

260 Madison Avenue  
New York, New York

May 20, 2011  
9:00 a.m.

VIDEOTAPED DEPOSITION of JONATHAN R.

BURCHFIELD, taken by the Plaintiffs, held at

the aforementioned time and place, before

Sherri Flagg, a Registered Professional

Reporter, Certified LiveNote Reporter, and

Notary Public.

VERITEXT REPORTING COMPANY

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516-608-2400

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Deverell Write, Videographer



1                   - J. BURCHFIELD -

2                   \*           \*           \*

3                   (Exhibit 1: Expert Report of  
4 Jonathan Burchfield, was marked for  
5 identification.)

6                   (Exhibit 2: Second Expert Report of  
7 Jonathan Burchfield, was marked for  
8 identification.)

9                   (Exhibit 3: Stone King Terms of  
10 Engagement 9/10/10 (#NW 217432-434), was  
11 marked for identification.)

12                  (Exhibit 4: Website bio of Vicki  
13 Bowles (#NW 217555), was marked for  
14 identification.)

15                  (Exhibit 5: A non-exhaustive list of  
16 publications authored by J. Burchfield  
17 (#NW 217435), was marked for  
18 identification.)

19                  (Exhibit 6: Interpal Report of an  
20 investigation under S 8 of Charities Act  
21 1993 (#W\_S081305-329), was marked for  
22 identification.)

23                  (Exhibit 7: Charity Commission  
24 Palestinians Relief and Development Fund,  
25 was marked for identification.)

1                   - J. BURCHFIELD -  
2                   (Exhibit 8: Inquiry Report  
3                   (Interpal), was marked for  
4                   identification.)

5                   \*           \*           \*

6                   VIDEO TECHNICIAN: We're on the           08:59:55  
7                   record. Today's date is May 20th, 2011.   08:59:56  
8                   The time on the video monitor is 8:59 a.m. 08:59:59

9                   This is the beginning of Tape No. 1   09:00:03  
10                  in the videotape deposition of Jonathan   09:00:06  
11                  Burchfield in the case of Weiss, et al.   09:00:09  
12                  versus National Westminster Bank, Plc;   09:00:15  
13                  Case No. 05-CV-4622.                   09:00:18

14                  This case is filed in the U.S.           09:00:21  
15                  District Court for the Eastern District of 09:00:23  
16                  New York.                               09:00:25

17                  My name is Deverell Write and I       09:00:25  
18                  represent Veritext Reporting. At this   09:00:27  
19                  time will counsel please state their   09:00:29  
20                  appearances.                           09:00:31

21                  MR. WERBNER: My name is Mark           09:00:31  
22                  Werbner from Dallas, Texas. I represent 09:00:33  
23                  those Plaintiffs in the matter that I've 09:00:36  
24                  filed a notice of appearance.           09:00:38

25                  MR. BLACKMAN: Jonathan Blackman and 09:00:39

- J. BURCHFIELD -

Valerie Schuster and David Levy from 09:00:42  
Cleary Gottlieb representing the Defendant 09:00:47  
NatWest and the witness. 09:00:51

VIDEO TECHNICIAN: Will the reporter 09:00:54  
please swear in the witness. 09:00:55

\* \* \*

J O N A T H A N R. B U R C H F I E L D,  
first duly sworn/affirmed, was examined  
and testified as follows:

EXAMINATION BY

MR. WERBNER:

Q. Would you tell us your full name, 09:01:10  
sir, and your current residential address. 09:01:12

A. My name is Jonathan Robert 09:01:14  
Burchfield. My residential address is 15 The 09:01:16  
Court, Bury Fields, Guildford in Surrey in the 09:01:20  
United Kingdom. 09:01:23

Q. Have you been hired as an expert 09:01:24  
witness on behalf of the NatWest Bank in this 09:01:28  
lawsuit? 09:01:31

A. Yes, I have. 09:01:32

Q. What work have you done in that 09:01:32  
capacity? 09:01:35

A. I have prepared two expert reports 09:01:36

- J. BURCHFIELD -

do. 09:41:49

Q. What do you do? 09:41:49

A. I'm a practicing lawyer. I don't  
write a lot of articles. 09:41:51  
09:41:53

Q. When you looked in your in-boxes,  
did you find any additional publications? 09:41:55  
09:41:58

A. No, that's -- I prepared this having  
reviewed my in-boxes. 09:42:02  
09:42:05

Q. This Exhibit 5 entitled "A  
non-exhaustive list of publications authored by  
Jonathan Burchfield in the last 10 years,"  
contains a reference to 14 different  
publications? 09:42:07  
09:42:16  
09:42:21  
09:42:25  
09:42:27

A. Yes. 09:42:28

Q. And you have the title and the date. 09:42:28

Do any of those publications that you've 09:42:32

written deal with terror financing in the 09:42:37

charitable organization context? 09:42:43

A. No, they don't. 09:42:47

Q. Have you read Exhibits 6, 7 and 8? 09:42:49

A. Yes, I have. 09:43:00

Q. And that was before you prepared  
your first report, Exhibit 1? 09:43:01  
09:43:07

A. Yes. 09:43:09

**EXHIBIT 161 to Declaration of Joel Israel**



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

---

UNITED STATES OF AMERICA	§	
	§	
v.	§	NO. 3:04-CR-240-P
	§	
HOLY LAND FOUNDATION FOR	§	
RELIEF AND DEVELOPMENT (1)	§	
also known as the "HLF"	§	Supersedes Indictment Returned On
SHUKRI ABU BAKER (2)	§	July 26, 2004
MOHAMMAD EL-MEZAIN (3)	§	
GHASSAN ELASHI (4)	§	
HAITHAM MAGHAWRJ (5)	§	
AKRAM MISHAL (6)	§	
MUFID ABDULQADER (7)	§	
ABDULRAHMAN ODEH (8)	§	

INDICTMENT

The Grand Jury Charges:

INTRODUCTION

At all times material herein:

1. The Harakat al-Muqawamah al-Islamiyya is Arabic for "The Islamic Resistance Movement" and is known by the acronym HAMAS. HAMAS, which is sometimes referred to by its followers as "The Movement," is a terrorist organization based in the West Bank and Gaza Strip (Gaza). HAMAS was founded in 1987 by Sheikh Ahmed Yassin as an outgrowth of the Palestinian branch of the Muslim Brotherhood. The Muslim Brotherhood is an international Islamic organization founded in Egypt in 1928



and is committed to the globalization of Islam through social engineering and violent *jihad* (holy war). HAMAS' published charter states that HAMAS' purpose is to create an Islamic Palestinian state throughout Israel by eliminating the State of Israel through violent *jihad*.

2. HAMAS achieves its goals through a military wing, known as the Izz el-Din al-Qassam Brigades, and a social wing, known as *Dawa* ("preaching" or "calling").

Although these two components have separate responsibilities, the organization operates seamlessly, with each component working to achieve the overall objectives of the terrorist group.

3. HAMAS' military wing is responsible for carrying out suicide bombings and other terrorist attacks within Israel, the West Bank and Gaza. These attacks have targeted civilians and have resulted in the death and injury of hundreds of individuals, including American citizens. HAMAS' social wing operates as a social welfare agency, providing food, medical care and education to Palestinians in order to generate loyalty and support for the organization and its overall goals. HAMAS supports religious and academic institutions that facilitate the teachings of HAMAS and introduce its radical and violent ideology at the earliest stages of spiritual and educational development. This social engineering is critical to winning the hearts and minds of the Palestinian people and to creating a military and operational recruitment pool for HAMAS. Additionally, HAMAS



rewards past terrorist acts, and provides incentive for future acts, by financially subsidizing family members of HAMAS operatives who are killed, injured or imprisoned, and ensuring that the families are revered in the community.

4. HAMAS' social services are, in large part, administered by local HAMAS affiliated zakat committees and other ostensibly charitable organizations. "Zakat," or "alms giving," is one of the pillars of Islam and is an act incumbent on all practicing Muslims. The membership of these committees and organizations consists of HAMAS members, operatives and activists. HAMAS' social infrastructure is supported by numerous financial sources located around the world, including individuals and entities in the United States. Additionally, due to HAMAS' substantial expenditures and the fungible nature of money, some of the money collected externally under humanitarian banners is routed to military and operational use, in addition to freeing up other funds for specific terrorist acts. Such uses include the provision of weapons, explosives, transportation services, safehouses, and job salaries for operatives.

5. HAMAS' Political Bureau sits above the social and military wings and serves as the highest ranking leadership body in the HAMAS organization. The Political Bureau is responsible for setting policies and guidelines regarding HAMAS' activities, including directing and coordinating terrorist acts. By design, several high-ranking members of the political bureau, such as Khalid Mishal and Mousa Abu Marzook, have resided outside the West Bank and Gaza, and lived in such places as Jordan, Syria and the United States.





6. The International Emergency Economic Powers Act (IEEPA) confers upon the President the authority to deal with threats to the national security or foreign policy of the United States. On January 23, 1995, pursuant to this authority, the President issued Executive Order 12947, which declared a national emergency resulting from the grave acts of violence committed by foreign terrorists designed to disrupt the Middle East Peace Process. The Executive Order prohibits transactions, including financial transactions, with organizations and individuals named in the Annex to the Order or organizations and individuals declared to be Specially Designated Terrorists by the United States Department of Treasury pursuant to the criteria articulated in the Order. The Executive Order authorizes the Department of Treasury to block all property subject to United States jurisdiction in which there is any interest held by any organization or individual declared to be a Specially Designated Terrorist. Any United States person or entity who possesses any funds in which any interest is held by a Specially Designated Terrorist, must report such interest to the proper United States authorities. Any dealings in those funds after the designation date, or any attempt to avoid acknowledgment of the funds, is unlawful.

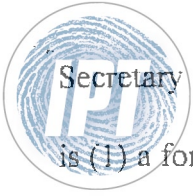
7. To implement Executive Order 12947, the United States Department of Treasury, through the Office of Foreign Assets Control, promulgated the Terrorism Sanctions Regulations, which are detailed at Title 31, Code of Federal Regulations, Section 595. Executive Order 12947 and the Terrorism Sanctions Regulations prohibit, among other things: (a) transferring, paying, exporting, withdrawing or otherwise dealing



in property or interests in property of a Specially Designated Terrorist that are in the United States, come within the United States, or come within the possession of or control of United States persons; (b) providing funds, goods or services to a Specially Designated Terrorist; (c) any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of the Terrorism Sanctions Regulations; (d) any conspiracy formed for the purpose of engaging in a prohibited transaction. A willful violation of any of these provisions is a criminal offense.

8. On January 25, 1995, HAMAS was designated as a Specially Designated Terrorist by the President in the Annex to Executive Order 12947. On August 29, 1995, former HAMAS Political Bureau Chief and current Deputy Chief Mousa Abu Marzook was designated as a Specially Designated Terrorist. On August 22, 2003, current HAMAS Political Bureau Chief Khalid Mishal was designated as a Specially Designated Global Terrorist pursuant to Executive Order 13224. Executive Order 13224 was issued on September 23, 2001, pursuant to IEEPA, and prohibits transactions with organizations and individuals who, inter alia, commit, threaten to commit, or support certain acts of terrorism.

9. On October 8, 1997, by publication in the Federal Register, the United States Secretary of State designated HAMAS as a Foreign Terrorist Organization pursuant to Section 219 of the Immigration and Nationality Act (INA), as added by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). Pursuant to the AEDPA, the



Secretary of State may designate a group as a Foreign Terrorist Organization if the group is (1) a foreign organization; (2) the organization engages in terrorist activity as defined by the INA; and, (3) the terrorist activity of the group threatens the national security of the United States. The AEDPA, and specifically 18 U.S.C. § 2339B, reflects Congress' recognition of the danger and design of terrorist movements such as HAMAS and, as a result, it is unlawful to provide material support and resources, to include currency or monetary instruments, financial services, personnel, transportation and other provisions, to any component of HAMAS.

10. The Muslim Brotherhood (HAMAS' parent organization) has maintained a presence in the United States since at least the early 1980s. During the times relevant to this Indictment, the Muslim Brotherhood in the United States had approximately ten to fifteen working committees, including a Palestinian Committee whose designed purpose was to support HAMAS. The Palestinian Committee had authority over several organizations, each with a specific purpose in its mandate to support HAMAS, such as propaganda, community relations and fundraising.

11. In or around 1988, shortly after the founding of HAMAS, **The Holy Land Foundation For Relief and Development ("HLF")** was created by the defendants **Shukri Abu-Baker, Mohammad El-Mezain and Ghassan Elashi**, to fulfill the fundraising component of the Palestinian Committee. From 1989 until 1992, the **HLF** was located in California and, until 1991, was known as the Occupied Land Fund



(hereinafter all references to the Occupied Land Fund will be as the **HLF**). In 1992, the **HLF** relocated to Richardson, Texas and became incorporated in Texas. The **HLF** represented itself to be a non-profit, tax exempt, charitable organization designed primarily to assist needy individuals in the West Bank and Gaza. In addition to the main office in Richardson, Texas, the **HLF** maintained offices in New Jersey, California, Illinois, Jerusalem, the West Bank and Gaza, and maintained a presence in other locations, such as Lebanon and Jordan.

12. The Islamic Association for Palestine (IAP) was the propaganda organization of the Palestinian Committee. It had offices in several cities throughout the United States, including Dallas and Chicago.

13. The defendant **Shukri Abu Baker** was the President, Secretary and Chief Executive Officer of the **HLF**. The defendant **Shukri Abu Baker**'s brother is Jamal Abu Baker, a.k.a Jamal Issa, the former HAMAS leader in the Sudan and the current HAMAS leader in Yemen.

14. The defendant **Mohammad El-Mezain** was the original Chairman of the Board until in or about 1999, when he became Director of Endowments for the **HLF**. The defendant **Mohammad El-Mezain** is a cousin of HAMAS Deputy Political Chief and Specially Designated Terrorist Mousa Abu Marzook.

15. The defendant **Ghassan Elashi** was the original Treasurer, and became the Chairman of the Board of the **HLF** in 1999. He was also an incorporator of the IAP. The



defendant **Ghassan Elashi** is related by marriage to HAMAS Deputy Political Bureau Chief and Specially Designated Terrorist Mousa Abu Marzook.

16. The defendant **Haitham Maghawri** was the Executive Director of the **HLF**.

17. The defendant **Akram Mishal** was the Project and Grants Director for the **HLF**. The defendant **Akram Mishal** is a cousin of HAMAS Political Bureau Chief and Specially Designated Global Terrorist Khalid Mishal.

18. The defendant **Mufid Abdulqader** was a top fundraiser for the **HLF**. The defendant **Mufid Abdulqader** is the half-brother of HAMAS Political Bureau Chief and Specially Designated Global Terrorist Khalid Mishal.

19. The defendant **Abdulrahman Odeh** was the New Jersey representative of the **HLF**.

#### The HLF's Relationship with HAMAS

20. During HAMAS' and the **HLF**'s beginnings, and in furtherance of their designed objective, the **HLF** provided significant financial resources to HAMAS leaders and key strategists. In April 1988, prior to its incorporation, the **HLF** sent approximately \$100,000 to HAMAS' future Political Bureau Chief Mousa Abu Marzook and his associates. Additionally, from 1988 through 1989, the **HLF** wire transferred approximately \$670,000 to an account held by the Islamic Center of Gaza, located in Gaza. The Islamic Center of Gaza was established by HAMAS spiritual leader and founder Sheik Ahmed Yassin, and was used by him to coordinate and conduct HAMAS



activities. During the time that the funds were being transferred to the Islamic Center of Gaza from the **HLF**, Sheik Yassin was arrested and convicted in Israeli court for the kidnapping and murder of an Israeli soldier.

21. As previously described, the **HLF** was deeply involved with a network of Muslim Brotherhood organizations dedicated to furthering the radical violent agenda espoused by HAMAS. These organizations served in different capacities, such as propaganda development and distribution, banking, and creating fundraising forums through which the **HLF** raised money. The **HLF** sponsored conventions, seminars, rallies and teleconferences in support of radical Islamic causes, including HAMAS. At these conventions, seminars, rallies and teleconferences, pro-HAMAS sheiks, Muslim Brotherhood members and HAMAS officials from overseas were employed to inflame the audience and enhance fundraising. The **HLF** paid for the travel to the United States of several of these speakers and HAMAS officials, including current HAMAS leader Mahmoud Zahar and former HAMAS spokesperson Jamil Hammami. At these events, participants, including the defendant **Mufid Abdulqader**, praised HAMAS through speeches, songs and violent dramatic skits depicting the killing of Jewish people.

22. In October 1993, in response to a United States sponsored Middle East peace initiative between the Israeli government and the Palestinian Liberation Organization, known as the Oslo Accords, and other significant events, the principals of the **HLF** met with other members of the United States based Palestinian Committee in Philadelphia,



Pennsylvania. The purpose of the meeting was to determine their course of action in support of HAMAS' opposition to the peace plan and to decide how to conceal their activities from the scrutiny of the United States Government. As noted in prior paragraphs, HAMAS is opposed to any peaceful solution to the Palestinian territorial conflict, as such a proposition is at odds with HAMAS' goal of annihilating the State of Israel and establishing an Islamic state in all of historic Palestine. During the meeting, the defendants **Shukri Abu Baker**, **Ghassan Elashi** and **Haitham Maghawri**, and others known and unknown to the Grand Jury, expressed their support for "The Movement," (as previously stated, a term known to refer to HAMAS, whose full name is the Islamic Resistance Movement) and affirmed that the United States should be used as a fundraising platform to further "The Movement's" goals. The attendees acknowledged the need to avoid scrutiny by law enforcement officials in the United States by masquerading their operations under the cloak of charitable exercise. To that end, the attendees discussed the need to conceal their true motives and objectives by giving nominal amounts to other non-Palestinian charities. The defendant **Shukri Abu Baker** reflected this understanding when he stated, "In the past we gave the Islamists \$100,000 and we gave the others \$5,000." The attendees noted the danger of attracting the terrorist perception, which would undoubtedly compromise their efforts in supporting the violent *jihād*.



23. In 1994, a dispute arose between the **HLF** and another HAMAS fundraising entity in the United States. Then HAMAS Political Chief Mousa Abu Marzook resolved the dispute and determined that the **HLF** would be the primary fund-raising organization for HAMAS in the United States.

24. The **HLF** supported HAMAS by subsidizing HAMAS' vital recruitment and reward efforts in the West Bank and Gaza. Although this financial initiative was spread broadly across the Palestinian population in order to promote HAMAS' appeal throughout the entire Palestinian community, those directly involved in furthering HAMAS' agenda were treated more favorably. In 1992, the Government of Israel deported over 400 members of HAMAS and other Islamic terrorist organizations to southern Lebanon in response to a surge in violence by HAMAS militants against Israeli soldiers, police and civilians. The **HLF** provided financial assistance to the deportees, and publically lauded itself for its response to the deportation. Deceased HAMAS leader Sheik Abdel Rantisi was one of the deportees whose family received financial assistance from the **HLF**.

25. In furtherance of HAMAS' goal of garnering the support of the Palestinian people, the **HLF** sponsored orphans and needy families in the West Bank and Gaza. While the program was mantled with a benevolent appearance, the **HLF** specifically sought orphans and families whose relatives had died or were jailed as a result of furthering HAMAS' violent campaign, including suicide bombings. This type of support





was critical to HAMAS' efforts to win the hearts and minds of the Palestinian people and to create an infrastructure solidifying HAMAS' presence.



COUNT ONE

Conspiracy to Provide Material Support to a Foreign Terrorist Organization -  
(18 U.S.C. § 2339B(a)(1))

1. Paragraphs one (1) through twenty-five (25) of the Introduction to this Indictment are hereby re-alleged and incorporated by reference as though fully set forth herein.

2. Beginning from on or about October 8, 1997, and continuing until the date of the Indictment, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants **Holy Land Foundation for Relief and Development (HLF), Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh**, and others known and unknown to the Grand Jury, knowingly conspired to provide material support and resources, as those terms are defined in Title 18, United States Code, Section 2339A(b), to wit, currency and monetary instruments, to HAMAS, a designated Foreign Terrorist Organization, in violation of Title 18, United States Code, Section 2339B(a)(1).

MANNER AND MEANS OF THE CONSPIRACY

3. The defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh** provided material support and resources to the designated Foreign Terrorist Organization HAMAS by raising funds in the United States and sending those funds to organizations and programs in the West Bank and Gaza which operated on behalf of, or



under the control of, HAMAS.

4. In furtherance of the conspiracy, the defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader** and **Abdulrahman Odeh**, participated in fundraising events at various forums, including conventions, services at mosques, seminars and other programs. The **HLF** sponsored speakers at these events whose mission was to raise funds for the **HLF**. Prior to the designation of HAMAS as a Foreign Terrorist Organization, the speakers sponsored by the **HLF** often praised the efforts of HAMAS and its violent activities against Israel, and encouraged financial support for those efforts. After HAMAS' designation, upon instruction by the **HLF**, the speakers changed tactics by using inflammatory language which was designed to support HAMAS and its violent activities without openly mentioning HAMAS. Some of the speakers sponsored by the **HLF** included founding HAMAS leaders, prominent HAMAS spokesmen and other speakers belonging to the Muslim Brotherhood. Furthermore, at some of the fund-raising events, the speakers, including the defendant **Mufid Abdulqader**, performed skits and songs which advocated the destruction of the State of Israel and glorified the killing of Jewish people.

5. In furtherance of the conspiracy, the defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader** and **Abdulrahman Odeh** provided financial support to the families of



HAMAS “martyrs,” detainees and activists knowing and intending that such assistance would support HAMAS’ terrorist infrastructure. In screening potential aid recipients and in providing funds, the defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh** distinguished between needy Palestinian families generally, and those Palestinian families who had a relative “martyred” or jailed as a result of terrorist activities. In some cases, the defendants specifically targeted families for financial aid who were related to known HAMAS terrorists who had been killed or jailed by the Israelis. In this manner, the defendants effectively rewarded past, and encouraged future, suicide bombings and terrorist activities on behalf of HAMAS.

6. In furtherance of the conspiracy, and in order to conceal the existence of the conspiracy, the defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh**, took several steps which were inconsistent with the activities of a legitimate charity. The defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh** in following counter-surveillance measures outlined in a manual they possessed entitled “The Foundation’s Policies and Procedures,” did the following: retained the services of a security company to search the premises of the **HLF** for listening devices; directed the defendant **Haitham Maghawri** to take training on



advanced methods in the detection of wiretaps; shredded documents; maintained incriminating documents at off-site locations, including on the premises of Infocom, a related entity of which the defendant **Ghassan Elashi** was an officer and HAMAS leader Mousa Abu Marzook was a major investor; the defendants **Shukri Abu Baker** and **Akram Mishal** traveled overseas while falsely posing as Infocom employees; and in conversations between themselves and others, the defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader** and **Abdulrahman Odeh** often spoke in code in order to conceal the true nature of their conversation.

7. In order to provide the **HLF** with a cloak of legitimacy and to conceal its relationship to HAMAS, the defendant **Shukri Abu Baker** discussed with the defendant **Ghassan Elashi** the need to provide minimal support to legitimate charitable causes. In furtherance of the conspiracy, and in order to conceal the existence of the conspiracy, the defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader** and **Abdulrahman Odeh** carried out this plan, while providing a substantial amount of their financial assistance to organizations and programs, which operated on behalf of, or under the control of, HAMAS, and to families of HAMAS “martyrs” and detainees.

8. In furtherance of the conspiracy, the defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid**



**Abdulqader and Abdulrahman Odeh** maintained information on the arrest and prosecution of HAMAS activists in Israel, the West Bank and Gaza, including individuals who were members of the zakat committees to which the **HLF** sent money.

9. In furtherance of the conspiracy, the defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh** wire transferred and caused to be wire transferred money from the **HLF** bank accounts in the Northern District of Texas, to zakat committees located in the West Bank and Gaza which were acting on behalf of, or under the control of, HAMAS.

10. In furtherance of the conspiracy, the defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh** wire transferred money from the **HLF** bank accounts in the Northern District of Texas, to the **HLF** offices in the West Bank and Gaza for further distribution to zakat committees located in the West Bank and Gaza which were acting on behalf of, or under the control of, HAMAS, as well as for direct payment to individuals whom the **HLF** supported on behalf of HAMAS, including the family members of "martyrs" and prisoners.

OVERT ACTS (1) - (8)

11. In furtherance of the conspiracy and to accomplish its purposes, on or about the dates listed below, the defendants **HLF, Shukri Abu Baker, Mohammad El-**



**Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader**

and **Abdulrahman Odeh** committed the following overt acts by issuing and causing to be issued wire transfers in the amounts indicated to be sent from the **HLF** bank accounts in the Northern District of Texas to the following organizations, which operated on behalf of, or under the control of, HAMAS:

<u>Overt Act</u>	<u>Date</u>	<u>Amount</u>	<u>Organization</u>
(1)	11/7/97	\$9,691	Qalqilia Zakat Committee
(2)	1/26/98	\$95,000	Islamic Charity Society of Hebron
(3)	3/27/98	\$7,218	Tolkarem Zakat Committee
(4)	3/27/98	\$11,773	Nablus Zakat Committee
(5)	1/12/99	\$50,000	Islamic Charity Society of Hebron
(6)	7/8/99	\$5,306	Tolkarem Zakat Committee
(7)	4/11/00	\$12,604	Ramallah Zakat Committee
(8)	6/14/01	\$40,586	Jenin Zakat Committee

OVERT ACTS (9) - (14)

12. In furtherance of the conspiracy and to accomplish its purposes, on or about the dates listed below, the defendants **HLF, Shukri Abu Baker, Mohammad El-Mezain, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader** and **Abdulrahman Odeh** committed the following overt acts by issuing and causing to be issued wire transfers in the amounts indicated to be sent from the **HLF** bank accounts in



the Northern District of Texas to the **HLF** offices in the West Bank and Gaza, which were then further distributed to zakat committees and to family members of individuals who were either “martyred” or jailed for terrorist related activities:

<u>Overt Act</u>	<u>Date</u>	<u>Amount</u>
(9)	11/24/98	\$47,376
(10)	12/21/99	\$117,506
(11)	11/20/00	\$200,000
(12)	12/7/00	\$220,660
(13)	3/8/01	\$374,755
(14)	6/11/01	\$192,403

In violation of Title 18, United States Code, Section 2339B(a)(1).





COUNTS TWO THROUGH TEN

Providing Material Support to a Foreign Terrorist Organization -  
(18 U.S.C. § 2339B(a)(1))

1. Paragraphs one (1) through twenty-five (25) of the Introduction to this Indictment and paragraphs three (3) through ten (10) of Count One are hereby re-alleged and incorporated by reference as though fully set forth herein.

2. On or about the dates set forth below, for each count below, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants **HLF, Shukri Abu Baker, Ghassan Elashi, Haitham Maghawri and Akram Mishal** aided and abetted by each other and others known and unknown to the Grand Jury, did knowingly provide and attempt to provide material support and resources, as those terms are defined in Title 18, United States Code, Section 2339A(b), to wit, currency and monetary instruments, to HAMAS, a designated Foreign Terrorist Organization, by issuing and causing to be issued wire transfers in the amounts indicated, from the defendant **HLF** bank accounts in the Northern District of Texas, to the following organizations, which operated on behalf of, or under the control of, HAMAS:

<u>Count</u>	<u>Date</u>	<u>Amount</u>	<u>Organization</u>
2	8/18/98	\$11,962	Ramallah Zakat Committee
3	8/21/98	\$24,211	Islamic Charity Society of Hebron
4	12/31/98	\$8,389	Jenin Zakat Committee
5	5/21/99	\$12,115	Ramallah Zakat Committee



6	10/13/99	\$25,000	Islamic Charity Society of Hebron
7	12/10/99	\$10,152	Jenin Zakat Committee
8	4/11/00	\$10,711	Nablus Zakat Committee
9	4/11/00	\$7,417	Qalqilia Zakat Committee
10	1/17/01	\$16,674	Nablus Zakat Committee

In violation of Title 18, United States Code, Sections 2339B(a)(1) and 2.



COUNT ELEVEN

Conspiracy to Provide Funds, Goods and Services to a Specially Designated Terrorist -  
(50 U.S.C. §§ 1701-1706)

1. Paragraphs one (1) through twenty-five (25) of the Introduction to this Indictment and three (3) through ten (10) of Count One are hereby re-alleged and incorporated by reference as though fully set forth herein.
2. Beginning from on or about January 25, 1995, and continuing until the date of the Indictment, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants **HLF, Shukri Abu Baker, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh**, and others known and unknown to the Grand Jury, knowingly and willfully conspired, confederated and agreed to violate Executive Order 12947, by contributing funds, goods and services to, and for the benefit of, a Specially Designated Terrorist, namely HAMAS, in violation of Title 50, United States Code, Sections 1701 through 1706, and Title 31, Code of Federal Regulations, Section 595.201 *et. seq.*

MANNER AND MEANS OF THE CONSPIRACY

3. In furtherance of the conspiracy, on or about January 25, 1995, and continuing until the date of this Indictment, the defendants **HLF, Shukri Abu Baker, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh** made regular monetary payments to zakat committees and individuals located in the West Bank and Gaza who were acting on behalf of, or under the control of, a

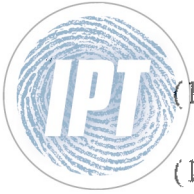


Specially Designated Terrorist, namely HAMAS.

OVERT ACTS

4. In furtherance of the conspiracy, and in order to accomplish its purposes, on or about the dates listed below, the defendants **HLF, Shukri Abu Baker, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh** committed the following overt acts by contributing funds, goods and services to, or for the benefit of, a Specially Designated Terrorist, namely HAMAS, to wit, by issuing and causing to be issued wire transfers in the amounts indicated from the **HLF** bank accounts in the Northern District of Texas, to the following organizations, which operated on behalf of, or under the control of, HAMAS:

<u>Overt Act</u>	<u>Date</u>	<u>Amount</u>	<u>Organization</u>
(1)	4/3/95	\$30,000	Islamic Charity Society of Hebron
(2)	4/22/96	\$9,758	Islamic Science & Culture Com.
(3)	11/20/96	\$8,434	Islamic Charity Society of Hebron
(4)	8/5/97	\$34,563	Ramallah Zakat Committee
(5)	11/7/97	\$10,690	Nablus Zakat Committee
(6)	3/27/98	\$12,179	Qalqilia Zakat Committee
(7)	4/3/98	\$24,173	Jenin Zakat Committee
(8)	6/26/98	\$75,000	Islamic Charity Society of Hebron
(9)	1/20/99	\$10,100	Ramallah Zakat Committee



(10)	2/16/99	\$20,000	Islamic Charity Society of Hebron
(11)	3/3/99	\$38,385	Islamic Charity Society of Hebron
(12)	12/14/99	\$17,996	Ramallah Zakat Committee
(13)	6/3/99	\$8,406	Jenin Zakat Committee
(14)	1/17/01	\$11,450	Tolkarem Zakat Committee

In violation of Title 50, United States Code, Sections 1701 through 1706 and Title 31, Code of Federal Regulations, Section 595.201 *et. seq.*



COUNTS TWELVE THROUGH TWENTY-ONE

Providing Funds, Goods and Services to a Specially Designated Terrorist -  
(50 U.S.C. §§ 1701-1706)

1. Paragraphs one (1) through twenty-five (25) of the Introduction to this Indictment; paragraphs three (3) through ten (10) of Count One; and paragraph three (3) of Count Eleven are hereby re-alleged and incorporated by reference as though fully set forth herein.
2. On or about the dates listed below, for each count below, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants **HLF, Shukri Abu Baker, Ghassan Elashi, Haitham Maghawri and Akram Mishal**, aided and abetted by each other and others known and unknown to the Grand Jury, willfully contributed funds, goods and services to, or for the benefit of, a Specially Designated Terrorist, namely HAMAS, by issuing and causing to be issued wire transfers in the amounts indicated, from the **HLF** bank accounts in the Northern District of Texas, to the following organizations, which operated on behalf of, or under the control of, HAMAS:

<u>Count</u>	<u>Date</u>	<u>Amount</u>	<u>Organization</u>
12	10/20/98	\$12,342	Ramallah Zakat Committee
13	12/31/98	\$50,000	Islamic Charity Society of Hebron
14	12/31/98	\$11,138	Nablus Zakat Committee
15	6/3/99	\$8,408	Jenin Zakat Committee
16	9/23/99	\$12,308	Ramallah Zakat Committee



17	9/23/99	\$36,066	Islamic Charity Society of Hebron
18	12/13/99	\$8,049	Tolkarem Zakat Committee
19	12/14/99	\$12,570	Nablus Zakat Committee
20	1/17/01	\$10,494	Qalqilia Zakat Committee
21	6/11/01	\$6,225	Qalqilia Zakat Committee

In violation of Title 50, United States Code, Sections 1701 through 1706;  
Title 31, Code of Federal Regulations, Section 595.201 et. seq.; and Title 18, United  
States Code, Section 2.



COUNT TWENTY-TWO

Conspiracy to Commit Money Laundering -  
(18 U.S.C. § 1956(h))

1. The allegations of paragraphs one (1) through twenty-five (25) of the Introduction to this Indictment; paragraphs three (3) through ten (10) of Count One; and paragraph three (3) of Count Eleven are hereby re-alleged and incorporated by reference as though fully set forth herein.
2. Beginning from on or about January 25, 1995, and continuing until the date of the Indictment, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants **HLF, Shukri Abu Baker, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh** and others known and unknown to the Grand Jury, in offenses involving interstate and foreign commerce, transmitted and transferred, and attempted to transmit and transfer, funds from a place within the United States, namely the Northern District of Texas, to places outside the United States, including the West Bank and Gaza, with the intent to promote the carrying on of a specified unlawful activity, to wit, by contributing funds, goods and services to, or for the benefit of, a Specially Designated Terrorist, namely HAMAS, in violation of Title 50, United States Code, Sections 1701 through 1706 (IEEPA), and punishable under Section 206 of IEEPA (also known as Title 50, United States Code, Section 1705(b)).
3. In furtherance of the conspiracy, between January 25, 1995, through December 4, 2001, the defendants **HLF, Shukri Abu Baker, Ghassan Elashi, Haitham**





Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh transmitted and caused to be transmitted and transferred at least \$12,400,000 to various organizations and programs, which operated on behalf of, or under the control of, HAMAS.

#### OVERT ACTS

4. In furtherance of the conspiracy, and in order to accomplish its purposes, on or about the dates listed below, the defendants **HLF, Shukri Abu Baker, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader and Abdulrahman Odeh** committed the following overt acts by contributing funds, goods and services to, or for the benefit of, a Specially Designated Terrorist, namely HAMAS, by issuing and causing to be issued wire transfers in the amounts indicated from the **HLF** bank accounts in the Northern District of Texas, to the following organizations located within the West Bank and Gaza, which operated on behalf of, or under the control of, HAMAS:

<u>Overt Act</u>	<u>Date</u>	<u>Amount</u>	<u>Organization</u>
(1)	4/3/95	\$30,000	Islamic Charity Society of Hebron
(2)	4/22/96	\$9,758	Islamic Science & Culture Com.
(3)	11/20/96	\$8,434	Islamic Charity Society of Hebron
(4)	8/5/97	\$34,563	Ramallah Zakat Committee
(5)	11/7/97	\$10,690	Nablus Zakat Committee
(6)	3/27/98	\$12,179	Qalqilia Zakat Committee
(7)	4/3/98	\$24,173	Jenin Zakat Committee



(8)	6/26/98	\$75,000	Islamic Charity Society of Hebron
(9)	1/20/99	\$10,100	Ramallah Zakat Committee
(10)	3/3/99	\$38,385	Islamic Charity Society of Hebron
(11)	12/14/99	\$17,996	Ramallah Zakat Committee
(12)	4/11/00	\$8,409	Jenin Zakat Committee
(13)	1/17/01	\$11,450	Tolkarem Zakat Committee

In violation of Title 18, United States Code, Section 1956(h).



COUNTS TWENTY-THREE THROUGH THIRTY-TWO

Money Laundering -  
(18 U.S.C. § 1956(a)(2)(A))

1. The allegations of paragraphs one (1) through twenty-five (25) of the Introduction to this Indictment; paragraphs three (3) through ten (10) of Count One; and paragraph three (3) of Count Eleven are hereby re-alleged and incorporated by reference as though fully set forth herein.

2. On or about each of the dates set forth below, for each count below, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants **HLF, Shukri Abu Baker, Ghassan Elashi, Haitham Maghawri and Akram Mishal**, aided and abetted by each other and others known and unknown to the Grand Jury, in offenses involving interstate and foreign commerce, transmitted and transferred, and attempted to transmit and transfer, funds in the amounts indicated, from a place within the United States, namely the Northern District of Texas, to places outside the United States, including the West Bank and Gaza, with the intent to promote the carrying on of a specified unlawful activity, to wit, by willfully contributing funds, goods and services to, or for the benefit of, a Specially Designated Terrorist, namely HAMAS, in violation of Title 50, United States Code, Sections 1701 through 1706 (IEEPA), and punishable under Section 206 of IEEPA (also known as Title 50, United States Code, Section 1705(b)):



<u>Count</u>	<u>Date</u>	<u>Amount</u>	<u>Organization</u>
23	10/20/98	\$12,342	Ramallah Zakat Committee
24	12/31/98	\$50,000	Islamic Charity Society of Hebron
25	12/31/98	\$11,138	Nablus Zakat Committee
26	6/3/99	\$8,408	Jenin Zakat Committee
27	9/23/99	\$12,308	Ramallah Zakat Committee
28	9/23/99	\$36,066	Islamic Charity Society of Hebron
29	12/13/99	\$8,049	Tolkarem Zakat Committee
30	12/14/99	\$12,570	Nablus Zakat Committee
31	1/17/01	\$10,494	Qalqilia Zakat Committee
32	6/11/01	\$6,225	Qalqilia Zakat Committee

In violation of Title 18, United States Code, Sections 1956(a)(2)(A) and 2.



COUNT THIRTY-THREE

Conspiracy to Impede and Impair the Internal Revenue Service and  
to File False Return of Organization Exempt from Income Tax -  
(18 U.S.C. § 371)

1. The allegations of paragraphs one (1) through twenty-five (25) of the Introduction to this Indictment; paragraphs three (3) through ten (10) of Count One; and paragraph three (3) of Count Eleven are hereby re-alleged and incorporated by reference as though fully set forth herein.

2. Section 501(c)(3) of the Internal Revenue Code grants authorized charitable organizations tax exempt status, which exempts them from having to pay any income tax on the donations they receive. The organizations are required to file an annual informational return, Form 990, entitled "Return of Organization Exempt from Income Tax," with the Internal Revenue Service. In that form, the organization must report the amount of their donations and how those donations are distributed. The return is signed under the penalty of perjury.

3. In September 1989, the defendant **Ghassan Elashi** filed an application with the Internal Revenue Service to obtain tax exempt status for the **HLF** pursuant to Section 501(c)(3) of the Internal Revenue Code. Tax exempt status was conferred on the **HLF** in January 1990.



4. In or around and between January 1990 and continuing until the date of the Indictment, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants **Shukri Abu Baker** and **Ghassan Elashi**, and others known and unknown to the Grand Jury, did knowingly and willfully combine, conspire, confederate and agree together with themselves and others

- a. to defraud the United States of America and the Internal Revenue Service ("IRS"), an agency thereof, by impeding, impairing, defeating and obstructing the lawful governmental functions of the IRS in the ascertainment, evaluation, assessment and collection of corporate income taxes, in violation of Title 18, United States Code, Section 371; and
- b. to willfully make and subscribe, and aid and assist in the preparation and presentation of, United States Returns of Organization Exempt from Income Tax, Form 990, which were verified by written declarations that they were made under the penalties of perjury and were filed with the IRS, which returns they did not believe to be true and correct as to every material matter in that the returns reported payments to Program Services when in fact the payments were going to HAMAS, in violation of Title 26, United States Code, Section 7206(1).

#### MANNERS AND MEANS OF THE CONSPIRACY

5. In furtherance of the conspiracy, between 1992 and 2001, the HLF received over \$57,000,000 in contributions, gifts and grants.



6. In furtherance of the conspiracy, between 1992 and 2001, the defendants **Shukri Abu Baker** and **Ghassan Elashi** reported approximately \$36,230,891 on Line 13 of the HLF's "Returns of Organization Exempt from Income Tax"(Form 990), as payments to Program Services, which the HLF ostensibly distributed as grants to various legitimate projects, including assistance to non-profit medical/dental clinics, orphanages, schools, refugee camps and community centers overseas, when in fact the donations were distributed to individuals and programs associated with, and organizations operating on behalf of, or under the control of, HAMAS, a terrorist organization.

#### OVERT ACTS

7. In furtherance of the conspiracy, and in order to accomplish its purposes, on or about the dates listed below, the defendants **Shukri Abu Baker** and **Ghassan Elashi** committed the following overt acts by signing and filing the following false Returns of Organization Exempt from Income Tax, Form 990, with the Internal Revenue Service:

<u>Overt Act</u>	<u>Year</u>	<u>Date Filed</u>
(1)	1995	8/19/96
(2)	1996	8/18/97
(3)	1997	4/13/98
(4)	1998	3/11/99



(5)	1999	5/8/00
(6)	2000	8/7/01

In violation of Title 18, United States Code, Section 371.





COUNTS THIRTY-FOUR THROUGH THIRTY-SIX

Filing False Returns of Organization Exempt from Income Tax -  
(26 U.S.C. § 7206(1))

1. The allegations of paragraphs one (1) through twenty-five (25) of the Introduction to this Indictment; paragraphs three (3) through ten (10) of Count One; paragraph three (3) of Count Eleven; and paragraphs two (2), three (3), five (5) and six (6) of Count Thirty-Three are hereby re-alleged and incorporated by reference as though fully set forth herein.

2. On or about the dates specified below, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants as listed below, did knowingly and willfully make and subscribe United States Returns of Organizations Exempt from Income Tax, Form 990, for the **HLF**, for the years listed below, which were verified by written declarations that they were made under the penalties of perjury and were filed with the Internal Revenue Service, which informational tax returns each defendant did not believe to be true and correct as to every material matter in that the returns reported payments to Program Services on Line 13 of said returns, whereas each defendant then and there well knew and believed the payments were not used for program services as required by their 501(c)(3) status:

<u>Count</u>	<u>Year</u>	<u>Date filed</u>	<u>Defendant</u>
34	1998	3/11/99	<b>Shukri Abu Baker</b>
35	1999	5/8/00	<b>Ghassan Elashi</b>



36

2000

8/7/01

**Ghassan Elashi**

In violation of Title 26, United States Code, Section 7206(1).



### FORFEITURE

As a result of committing one or more of the money laundering or monetary transaction offenses in violation of Title 18, United States Code, Section 1956, alleged in Counts Twenty-Two through Thirty-Two of this Indictment, the defendants, as listed below, shall forfeit to the United States of America, all property, real and personal, involved in the money laundering or monetary transaction offenses, and all property traceable to such property, including but not limited to the following:

Defendants **HLF, Shukri Abu Baker, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid Abdulqader** and **Abdulrahman Odeh** shall forfeit at least \$12,400,000 in United States currency. That sum represents a portion of the sum of monies sent from a place within the United States, namely the Northern District of Texas, to places outside the United States, including the West Bank and Gaza and other places, as well as monies that were destined for places outside the United States, with the intent to promote the carrying on of a specified unlawful activity, to wit, willfully contributing funds, goods and services to, or for the benefit of, a Specially Designated Terrorist, namely HAMAS, as set forth in Counts Eleven through Twenty-One, for which the defendants are jointly and severally liable.

By virtue of the commission of one or more of the felony offenses charged in Counts Twenty-Two through Thirty-Two of this Indictment by the defendants **HLF, Shukri Abu Baker, Ghassan Elashi, Haitham Maghawri, Akram Mishal, Mufid**



Abdulqader and Abdulrahman Odeh, any and all interests which the defendants have in the above described sums are vested in the United States and are hereby forfeited to the United States pursuant to Title 18, United States Code, Section 982(a)(1).

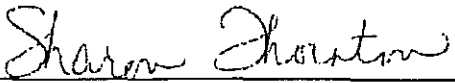
In the event that any property, real or personal, involved in the offenses and described in Counts Twenty-Six through Thirty-Eight of this Indictment, or any property traceable to such property, as a result of any act or omission of the defendants:

- (1) cannot be located upon exercise of due diligence;
- (2) has been transferred or sold to, or deposited with a third party;
- (3) has been placed beyond the jurisdiction of the court;
- (4) has been substantially diminished in value; or
- (5) has been co-mingled with other property which cannot be divided without difficulty;

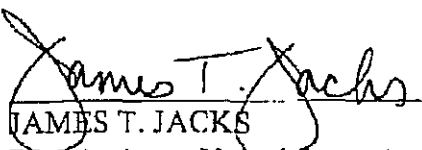


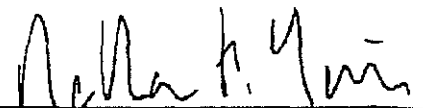
it is the intent of the United States, pursuant to Title 18, United States Code, Section

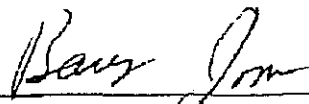
982(b)(1) to seek forfeiture of any other property of said defendants up to the value of the above property.

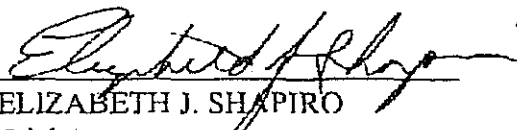
  
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**EXHIBIT 162 to Declaration of Joel Israel**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

STANLEY BOIM, Individually and as Administrator of )  
the Estate of David Boim, Deceased, and JOYCE BOIM, )

Plaintiffs, )

v. )

QURANIC LITERACY INSTITUTE, *et al.*, )

Defendants. )

Civil No. 00 C 2905

Magistrate Judge Arlander Keys

EXPERT REPORT OF REUVEN PAZ

I. SCOPE OF ENGAGEMENT

I have been asked by counsel for plaintiffs to provide certain opinions with respect to the financing of The Islamic Resistance Movement -- Hamas -- through front organizations and institutions. It is my understanding that the *Boim* case is brought under 18 USC §2333 which provides civil remedies for United States nationals who are injured "by reason of an act of international terrorism. . . ." I also understand that the Court has interpreted this statutory provision to include those organizations and individuals who "aid and abet" acts of terrorism by knowingly providing financial assistance to those groups that carry out acts of terrorism.

Specifically, plaintiffs have asked me to:

1. Explain the history of Hamas, whether Hamas is engaged in international terrorism, how Hamas finances its terrorist operations, and the history of the Hamas terrorist wing as part of Hamas generally;
2. Evaluate whether the "charitable" elements of Hamas are separate from its terrorist activities;

3. Examine a variety of publications and statements of the defendants and their principal activists and others to determine whether they reflect notice to the defendants of Hamas involvement in terror operations;

4. Determine whether the actions of defendants the Holy Land Foundation for Relief and Development ("HLF") and Islamic Association for Palestine (including its various affiliates, collectively referred to herein as "IAP") provided support to organizations and individuals who were connected to Hamas;

5. Explain what role the defendant organizations have played in support of Hamas and its goals;

6. Determine whether Hamas, Amjad Hinawi and Khalil Ibrahim Tawfiq Al-Sharif were responsible for the murder of David Boim; and

7. Translate, or confirm translations of, various documents, video tapes and video tape segments from Arabic to English.

## **II. SUMMARY OF OPINIONS**

As a result of my examination of exhibits in this case and based upon my knowledge of the history and organization of Hamas and other extreme Islamic organizations developed through my years of research and analysis, it is my opinion that:

1. Hamas was founded in Gaza in December 1987 as an extension of the Muslim Brotherhood, an extreme Islamic organization. Hamas was established as a comprehensive movement embracing social, political, welfare, educational, religious and cultural elements. Upon its founding, Hamas established the Izz Al-Din Al-Qassam Brigades, a terrorist wing. Hamas has been engaged in terrorism from its very inception in 1988. In August 1988, Hamas published its "Charter." The Charter takes an uncompromising position against any form of



reconciliation between Israel and the Palestinians. It seeks the restoration to Islamic control of all lands that have ever been held by Muslims. The Hamas Charter calls for the murder of Jews in Israel and the West Bank and Gaza (the "Territories") and repeats many of the anti-Semitic canards expressed in Europe over the past centuries.

2. Hamas finances its operations from a number of sources including fund raising by organizations based in the United States, including HLF and IAP. Hamas supports its terrorist wing with funds received by its social welfare organization. Hamas makes no distinction, politically, ideologically or financially, between its social and terrorist elements. The social and terrorist wings of Hamas are elements of a single movement.

3. The publications and statements of defendants IAP, (including its related organizations including the American Muslim Society and American Middle Eastern League for Palestine), and HLF, and others demonstrate that the defendants had notice of Hamas' terrorist activities. In fact, Hamas has always publicized and taken pride in its terrorist activities.

4. The actions of IAP and HLF provided support for Hamas and its Jihadist ideology that promotes terrorism.

5. HLF has provided direct support to Hamas affiliated institutions and organizations in Israel and the Territories. IAP has acted with HLF in providing that direct support. HLF and IAP have participated in meetings with members of Hamas to defeat the Oslo Accords and promote the Hamas agenda of terrorism by supporting organizations in Gaza, the West Bank, and elsewhere in the Middle East that are controlled by Hamas. HLF provided direct support to the Hamas terrorists who were expelled by Israel to Lebanon in December 1992.

6. Hamas was responsible for David Boim's murder. The individuals who conducted the terrorist operation that resulted in David Boim's murder, Amjad Hinawi and

Khalil Ibrahim Tawfiq Al-Sharif were members of Hamas at the time that they perpetrated David's murder. Hamas has accepted responsibility for the murder of David Boim.

7. I have attached as Exhibits true and correct translations of relevant documents.

### III. BACKGROUND

As noted in detail in my *curriculum vitae*, which is attached hereto as Exhibit U, I have particular expertise that allows me to render these opinions. I am an expert on Terrorism and Counter-Terrorism, Islamic movements in the Arab and Islamic world, Palestinian Islamic groups and Palestinian society and politics. I have researched these issues during the past 25 years, both in official and academic fields in Israel. In recent years, I took part in several international academic conferences on various issues related to Islamic and Islamist activity, fund-raising, and terrorism.

From 1971-94, I served in the Israeli security community, culminating as Director of the Research Division of the Israel General Security Service ("Shin Bet"), one of Israel's most significant intelligence agencies, equivalent to the Federal Bureau of Investigation. In this capacity, I was responsible for gathering and analyzing intelligence about terrorist organizations, including Hamas, its operations, leaders and structure for the Israeli government. I have also performed extensive research of Hamas through publicly available sources, such as Hamas communiqués, publications, websites and interviews. During my period of service in the intelligence community, I was the first person to analyze and translate the Hamas Charter when it was published in August 1988.

From 1989-98 I was a lecturer in the department of Middle Eastern Studies at Haifa University. From 1997 to date I have been affiliated with the International Policy Institute for Counter-Terrorism ("ICT") in the Interdisciplinary Center, Herzliya, Israel, serving as academic

director (1997-2000) and Senior Research Fellow (2001-03). Currently, I am Founder and Director of the Project for the Research of Islamist Movements (PRISM) at the Global Research in International Affairs (GLORIA) Center of the Interdisciplinary Center in Herzliya. In each of these capacities, I have and continue to closely monitor publications and various writings, including web sites, of Islamic organizations, including Hamas.

At the present time I have also been acting as a consultant to the United States Department of Justice and the Federal Bureau of Investigation on terrorism issues. I have testified on behalf of the United States government as an expert on Hamas and Islamist movements, most recently in the *Sami Al-Hussayen* case pending in federal district court in Idaho.

I am fluent in spoken and written Arabic and understand the cultural nuances that are often expressed in Islamic speech and writings.

#### IV. MY INVESTIGATION

In order to prepare myself to reach my opinions, I examined the following materials:

1. The First Amended Complaint in *Boim v. Quranic Literacy Institute, et. al*
2. The Watson Report and portions of the Administrative Record
3. HLF's Responses to Requests for Admission
4. Relevant portions of the following deposition transcripts:

##### Deponent

Shukri Abu Baker - 30(b)(6)

Omar Ahmad

Nihad Awad

Muhammad El Mezzain

Rafeeq Jaber (04/09/03)

Rafeeq Jaber (08/06/03)

5. Exhibits introduced during depositions:
  - a. Omar Ahmad Deposition Exhibit Nos. 7, 8, 10, 11 and 12
  - b. Shukri Abu-Baker Deposition Exhibit Nos. 13, 15, 16, 18, 20, 22, 23, 24, 28 and 30
  - c. Bassman Elashi Deposition Exhibit No. 31
  - d. Mohammad Salah Deposition Exhibit No. 4, 5 and 18
  - e. Rafeeq Jaber Deposition Exhibit Nos. 20, 21, 22, 24, 25, 26, 32, 33, 34, 35, 52, 54, 56, 57 and 58
6. Video Tapes:
  - a. New Jersey, IAP 1993 (BO 002666)
  - b. IAP Convention 1992 (BO 002667)
  - c. IAP Conference (BO 002668)
  - d. IAP Palestine . . . Come to Jihad (BO 002669)
  - e. Jihad in America (BO 002670)
  - f. Nihad Awad Intro, Barry University 3/22/94 (BO 002671)
  - g. Nihad Awad, Barry University, Florida, March 22, 1994 (BO 002672)
  - h. The Camp of Returnees (Deportees) (BO 002673)  
Aqsa Vision
  - i. 60 Minutes, "Terrorist Hunter," 05/04/03 (BO 002674)
  - j. 1994 HLF (BO 002675)  
Zakat Ramallah
  - k. Speech by a Veiled Terrorist of Hamas, IAP Conference Kansas City, Missouri, December 27-30, 1989 (BO 002676)
  - l. Joint Maya – IAP Conference 1988 (BO 002677)

- m. Hamas Training & Recruitment, Izz Al-Din Al-Qassam Brigades, Gaza, Palestine, September 1992 (BO 002678)
- n. 1989 Convention IAP Kansas City, MO Second Version (BO 002679)
- 7. Transcript of Nihad Awad at Barry University
- 8. Affidavit of Shukri Abu Baker
- 9. Affidavit of Rashid Khalidi
- 10. Interview with Khaled Mishal in Al-Hayat (Arabic) and English translation of the interview
- 11. Muhammad Salah indictment and conviction
- 12. Hamas Charter (Arabic) (1988). English translation available at <http://www.palestinecenter.org/cpap/documents/charter.html>.
- 13. Statement by Hamas from Yemen website of Hamas affiliated organizations (<http://www.aqsaorg.com/profile/cmt.php>).
- 14. State Department Report on Hinawi Trial (March 3, 1998).
- 15. Official Sentencing of Hinawi (Palestinian Authority Security Court), (Arabic original with Hebrew and English translations).
- 16. Palestinian Authority Publication Identifying Martyrs, [http://www.pnic.gov.ps/arabic/quds/arabic/viol/quds\\_viol33.html](http://www.pnic.gov.ps/arabic/quds/arabic/viol/quds_viol33.html).
- 17. Islamic block of Hamas at Al-Najah University, Nablus Tribute to Al-Sharif [http://www.khayma.com/Islamic\\_block/index/j5.htm](http://www.khayma.com/Islamic_block/index/j5.htm) (as of January 21, 2004).
- 18. Israel Ministry of Foreign Affairs Request for Handover of Suspects (September 22, 1997) <http://www.israel.org/mfa/go.asp?MFAH0bx50>.

19. Israel Foreign Affairs Background Paper Seeking Extradition of Suspects Wanted by Israel for Terrorism and Other Crimes (October 22, 1998) <http://www.israel-mfa.gov.il/mfa/go.asp?MFAH07o00>.
20. Hamas Tribute to Mahmoud Abu Hanoud, <http://www.palestine-info.info/arabic/hamas/shuhda/abohanod/life.htm>.
21. "Record of Honor" to Mahmoud Abu Hanoud, <http://www.alwelayah.net/shuhda/sierah/polistain/14.htm>
22. Website of the Izz al-Din al-Qassam Brigades, <http://www.ezzedeen.net/english/hamas.htm> (as of May 4, 2004).
23. "Who was Abdullah Azzam?" in Abdullah Azzam, *Join the Caravan*, Azzam Publications, 2001.
24. "Women may be suicide bombers, Muslim scholar rules," Jerusalem Post, 5/25/03.
25. December 1988/January 1989 *Ila Filistin*.
26. Anonymous (Rita Katz), "Terrorist Hunter," (2003).
27. Muhammad and Azita Salah bank statements for 12/92-2/93 and wire transfer receipts.
28. In the Matter of the Extradition of Marzook, 924 F. Supp. 565, 592 (S.D.N.Y. 1996).
29. Arabic document, Bates No. BO 5180.
30. Report of May 13, 1996 Terrorist Attack and Murder compiled by Israel Police, Benjamin Region.
31. "3<sup>rd</sup> Ben Yeyuda Bomber Identified," Jerusalem Post, October 30, 1997.

32. Materials detailed in Section V(E) below.

V. DETAILED OPINIONS

A. Hamas and Its Supporters.

The Islamic Resistance Movement -- "Hamas" -- is an extension of the Palestinian Muslim Brotherhood and was established on December 14th 1987, following the events of the popular uprising in the Territories in Gaza and later on in the West Bank. (December 15, 2003 Khaled Mishal interview (Part 2 of 7)) Upon its formation, Hamas created a terrorist wing of the movement, which has operated alongside its traditional activities in the social, political, welfare, educational, religious, and cultural fields. Hamas combined these various activities into a single financial system.

Based upon my years of researching Hamas and its operations, I have determined that, during the first intifada, which began in December 1987, there were two important developments regarding Hamas' financing of its operations:

1. Beginning in the early 1980s, the movement established many front organizations, research institutes, newspapers, and cultural associations in various countries in Europe and the United States, in order to recruit political support, raise funds and launder money. Among them was IAP.
2. Following the PLO and the Palestinian national leadership's support for Iraq in the Gulf war in 1990-91, Saudi Arabia and the Gulf Emirates stopped their large scale financial support for the PLO and its supporters in the Palestinian Territories, and started transferring the money to the Palestinian Islamic groups and social organizations and projects run by these Islamic groups, principally Hamas, the largest of them. This financing was done mainly through front organizations and institutions in Europe and the United States.

These developments, in addition to a change in the policy of the PLO and Palestinian national groups to stop the terrorist fight against Israel and turn to a political struggle and negotiations, put Hamas in the position of being the main Palestinian terrorist element against the Israeli rule in the Territories and against Israeli civilians. These developments also increased the

importance of the pro-Hamas infrastructure of institutions in Europe and the United States in the political and financial support for the Islamic movement.

From my years of research, I can confirm that Hamas, as part of the ideological school of the Muslim Brotherhood, treats the combination of various fields of activity, including terrorism, as part of one struggle of Jihad and a religious duty. Hamas' combination of social and cultural activity with its terrorist activities has been an integral part of Hamas policy, particularly since Hamas became the principal Palestinian opposition group to the PLO, and later to the newly established Palestinian Authority. Thus, providing funds and support to Hamas-related Islamic organizations and institutions provides support to Hamas terrorist activities.

Islamic movements in the Middle East, including Hamas, developed in the past decade an approach that gave a growing importance to the support of the Muslim communities, mainly in Europe and North America, as a kind of backbone to the Middle Eastern groups. This approach was in accord with the policy and theories of the globalization of the Islamic struggle. Hamas attempted to establish Islamic institutions in Western countries, including those mentioned in the *Boim* litigation, in order to use them for the recruitment of support of various kinds, including large-scale fund-raising and money-laundering. The financial support was generally supplied through the transfer of money to the social infrastructure of Hamas in the Palestinian territories without any supervision by the donors as to how the financial support was used. Based on the knowledge I have developed from my years of research, I have determined that part of the money raised or laundered through these organizations, including the defendants, was diverted to the logistics of the terrorist activity of the military wing of Hamas -- the Brigades of Izz al-Din al-Qassam -- who were responsible for the murder of the late David Boim. (See discussion at V. D. below).



The "Brigades of Izz al-Din al-Qassam" were formed at the beginning of 1988 and became engaged immediately in well-publicized terrorist activities. (See, e.g., Mishal interview (Part 2 of 7); Exhibit B hereto) The Izz al-Din al-Qassam Brigades were modeled after similar terrorist groups that were always part of the Muslim Brotherhood. As one who carefully follows the pronouncements of Hamas leaders, I have never heard the claim from them that the military wing of Hamas is independent from or separate from the rest of Hamas. Indeed, even today, Hamas and the Izz al-Din al-Qassam Brigades make it clear that they are a single organization. On its current website, Izz al-Din al-Qassam states:

Hamas Islamic Resistance Movement helps in establishing many institutions such as mosques, clinics, hospitals, schools, and social programs, however, it is best known in the west for its military wing that has carried out numerous heroic resistance attacks against the Zionist occupiers of Palestine, Hamas also organizes extensive charitable and educational programs, and has built great schools for boys and schools for girls and they are separated. Also they built hospitals throughout Gaza strip and West Bank

<http://www.ezzedeen.net/english/hamas.htm> (as of May 4, 2004).

Part of the money supplied by United States based pro-Hamas front organizations was raised for so-called humanitarian and relief projects, which were often used to assist families of Hamas "*shuhada*" or "martyrs;" terrorists who were killed, wounded or arrested following terrorist operations, including suicide-bombing. Those who are killed in such operations are generally referred to as a "*shaheed*" or "martyr" by Hamas spokesmen and propagandists. Support of martyrs is an important element used by Hamas to encourage support for its terrorist activity. Those contemplating acts of terrorism, where they are likely to perish, need assurance that their families will be taken care of or even rewarded because of their acts of "sacrifice" and "martyrdom." This is a particularly powerful motive given the poor economic conditions present in Gaza and the West Bank. Furthermore, the movement's activists who recruit members to the

Brigades of Izz al-Din al-Qassam have used the various social, educational, religious and relief projects of Hamas in the Palestinian territories as a source for new recruits.

Since the financial infrastructure of Hamas is clandestine, it is very difficult to say with certainty what percentage of the funds raised for Hamas out of the Middle East were diverted to terrorist activity *per se*. But, it should be noted again that in the view of Hamas and its front organizations, the terrorist activity was and is an integral part of the movement's activity as the religious duty of Jihad, and for the consolidation of an Islamic society on the way to the liberation of all of Palestine, and the creation of an Islamic state by the elimination of the Jewish state of Israel. Therefore, the financial support for Hamas is designed to support the movement as a whole, with no distinction between the different fields of activity.

**B. Islamic Association for Palestine.**

There is clear evidence that the Islamic Association for Palestine is a Hamas front organization deeply involved in supporting Hamas terrorism. Khaled Mishal, one of the founders of Hamas, identifies IAP as a "first pillar" in the establishment of the Muslim Brotherhood outside of the region. (Mishal interview (Part 2 of 7)) This is corroborated by IAP's own logo (shown on the videotape of the 1989 IAP convention), which, until today, makes reference to a Quranic saying that is identified with the Muslim Brotherhood. As explained above, it is well established that Hamas was created by Sheikh Ahmed Yassin and others as an outgrowth of the Muslim Brotherhood in Gaza in 1987 at the time of the first intifada.

I have reviewed in detail a number of videotapes of IAP conventions held in the United States. These tapes demonstrate beyond any doubt that IAP was promoting Hamas with particular emphasis on its terrorist culture and activities. The tape of the 1988 convention makes this very clear. The main speaker on that tape is Abdullah Azzam. Azzam was the leading ideologue of the mujahadin warriors in Afghanistan. In his speech Azzam pays particular tribute

to Hamas founder Sheikh Yassin and extols the Hamas agenda of jihad. (*See*, Exhibit A hereto) The role of Azzam in the creation of the call to jihad, martyrdom and terrorism cannot be overemphasized. Osama Bin Laden publicly refers to Abdullah Azzam as his mentor and teacher. According to Bin Laden: "Sheikh Abdullah Azzam was not an individual, but an entire nation by himself. Muslim women have proven themselves incapable of giving birth to a man like him after he was killed." ("Who was Abdullah Azzam?" in Abdullah Azzam, *Join the Caravan*, Azzam Publications, 2001 p. 7.)

The 1989 IAP convention is notable in its unabashed support for Hamas and Hamas terrorism. Dedicated to the memory of Abdullah Azzam, who had been killed in Afghanistan in November 1989, the convention hall was bedecked with Hamas banners and slogans. Included was a large map of Israel with the saying "Islamic Palestine From the River to the Sea" in Arabic. (*See*, Exhibit B) This is a well-known Hamas saying calling for the eradication of Israel and its replacement with an Islamic regime. Another banner states in Arabic "Islamic Resistance Movement. [Hamas] - The Pioneer of Jihad in Palestine." (*Id.*)

The speakers at the 1989 meeting made clear their support for Hamas terrorism. One of the speakers, who was presented as a representative of Hamas in the Territories, had his identity shrouded with a mask. Carrying the Hamas flag, he thanked the Islamic Association for Palestine and the Occupied Land Fund (HLF's original name) for their support before launching into a detailed description of specific terrorist acts carried out by Hamas. (*See*, Exhibit B) Another speaker led the audience in a song whose refrain was "O Hamas." (*See*, Exhibit D)

The 1989 Convention is also notable due to the presence of Sheikh Yusef Qaradawi who also addressed the audience and told them: "the Hour of Judgment will not come until you fight the Jews. And the Muslims will kill them . . . ." (*See*, Exhibit C) Sheikh Qaradawi was and

remains a major religious figure who proclaims extremist views. Sheikh Qaradawi has endorsed suicide bombings, and provided Hamas with the Islamic legitimacy for its suicide operations. Most recently he issued a fatwa, a statement of Islamic law, permitting Muslim women to dress secularly in order to engage in terrorist attacks. ("Women may be suicide bombers, Muslim scholar rules," Jerusalem Post, 5/25/03) At his deposition in this case, Omar Ahmad, who in 1989 was the president of AMELP doing business as IAP, described Qaradawi as "the number-one scholar in the Muslim world today" (Ahmad Dep., p. 190-91), and said that he had wished that he had been responsible for inviting him to the event. (*Id.*, 191)

I have viewed the video of the 1989 Convention in its entirety. Based upon my detailed knowledge of the nuances of Arabic language, including its use of scriptural and cultural references, it is clear to me that the message delivered by the video and, hence the convention, is one of unwavering support for Hamas and its program of violent jihad seeking the destruction of Israel and the use of terrorism to achieve that goal. There can be no mistake that the message of jihad in the form of terrorism and calling for the elimination of Israel was a major theme of the event.

In addition to the conventions, IAP supported other efforts to promote Hamas terrorism. It has published Hamas communiqués extolling Hamas terrorism. (Abu Baker Dep., Exs. 13, 15, 16) It has made appeals to support military Jihad with "Jihad by money," calling for contributions to its sister organization the Holy Land Foundation, formerly the Occupied Land Fund ("OLF"). (*See, e.g.*, Exhibit G; Abu Baker Dep., Exs. 13, 15-18)

In 1992, Aqsa Vision (an affiliate of IAP) distributed a video entitled "Izz al-Din al-Qassem Brigades," subtitled "Gaza, September 1992." The video includes footage of Hamas terrorists carrying automatic weapons and jumping out of trees. It includes interviews of Hamas

terrorists who are preparing to engage in “martyrdom” operations. At the end of the video the screen shows the name Aqsa Vision and its phone number. The phone number (214/669-9595) is identical to that of IAP’s Richardson, Texas office. (*See, e.g.*, BO 005180)

In 1994, at a conference held at Barry University in Florida, Nihad Awad, who was identified as the Director of Public Relations of IAP, publicly stated that he was “in support of [sic] Hamas movement” while acknowledging that it was “destructive and involved in violence.” (Awad dep., p. 58, 2-9 and Exhibit 3 thereto)

From the time of Hamas’ inception, IAP published leaflets and communiqués issued by Hamas detailing its operations in its newspaper, *Ila Filistin*. These materials frequently solicited donations to OLF. For example, the December 1988/January 1989 issue of *Ila Filistin* contains multiple Hamas communiqués wherein Hamas affirms its rejection of any political solution to the Israeli-Palestinian conflict. (*See*, Exhibit I) One of these communiqués includes an advertisement asking readers to: “Send your tax-deductible donations to the Occupied Land Fund, P.O. Box 38, Plainfield, IN 46168.” (*See*, December 1988/January 1989 *Ila Filistin*)

In the November/December 1989 issue of *Ila Filistin*, a statement posted and signed by IAP extolled the virtues of Hamas and solicited support for the Occupied Land Fund:

The only way to liberate Palestine, all of Palestine, is the path of jihad...Jihad for the sake of God to liberate the land is every Muslim’s individual duty...The Islamic resistance movement, Hamas, is the conscience of Palestinian mujahid people. It is the firebrand of hope that lights up from within the pile of weakness and conspiracy declared by defeatists and conspirators against the Palestinian cause... [W]e invite you to perform jihad for the sake of God with your money—donate as much as you can for the intifada in Palestine. You can send your donation to: Occupied Land Fund, P.O. Box 928, L.A. CA. (Exhibit G)

On December 10, 1988, IAP published a "Message from the Islamic Resistance Movement (Hamas) To The Eminent Islamic Jurisprudence Association For its Fifth Convention in Kuwait." (AR 1499-1500). The message implored the audience to follow these directives:

"First: Confirm the legal claim of the Muslims to the entirety of Palestine undiminished from the sea to the river. Second: Call for Jihad for the sake of God considering that it is the only way to liberate Palestine and all of the stolen lands. Third: Stand against the attempts to hand over the land of Palestine and recognize the Jewish enemy and his alleged existence via what is called the peace process. Clarify Islam's position on these theses. . . . "

(AR 1529). The document requests that the reader "Send your tax deductible donations TO: Occupied Land Fund." (AR 1511). The mailing address given is Plainfield, Indiana, where Shukri Abu Baker worked prior to moving to California. (*Id.*; Abu Baker Dep., p. 110-11)

On December 1, 1989, the IAP issued a communiqué on behalf of Hamas. (AR 1500). It stated that the intifada is "under the leadership of the Islamic Resistance Movement, "HAMAS." \* \* \* 'HAMAS' is the conscience of the Palestinian Mujahid people \* \* \* [W]e invite you to perform jihad for the sake of God with your money and donate as much as you can to support the Intifada in Palestine. You can send your donation to: Occupied Land Fund. P.O. Box 928. L.A., CA 90232-0928." (AR 1500, 1531-35).

IAP assistance to HLF in its efforts to raise funds for Hamas is purposeful. For example, IAP and HLF have entered into a contract under which IAP committed to assisting HLF in raising funds. (Abu Baker Dep., Ex. 19) HLF has also used IAP conferences and conventions as forums for raising funds. (Abu Baker Dep., pp. 76-77, 199-200) IAP also published the Hamas Charter in 1988, shortly after it was written. (Awad Dep., Exs. 4, 5) The Hamas Charter clearly calls for the use of violence to achieve its goal of the elimination of Israel as well as the recapture of all lands that were ever under Islamic control. To this very day, IAP has an active and widely circulated web site and news service, which parrots the Hamas line. (*See, e.g.,* Jaber

Dep., Exs. 56-58) To my knowledge, the IAP news has never criticized an act of terrorism, including suicide bombings against civilians.

Beyond the activities mentioned above, which are only highlights of IAP activities, its societal function needs to be emphasized. IAP is engaged in supporting a Jihadist culture in the United States' Arab and Muslim population. The presence of school age children in the convention videos singing Hamas oriented songs, the presence of leading extremist Islamic religious figures at these meetings and the call for the support of Jihad tells me that this is an effort to replicate the ideology that is present in Hamas circles in Gaza and the West Bank. This approach is an important underpinning to the ability to recruit suicide bombers.

IAP also provided an audience for individuals who are identified with Jihadist causes. Prominent in that list is Sami Al Arian, who has been charged with acting as the leader of the Palestinian Islamic Jihad, a notorious terrorist organization. The current president of IAP, Rafeeq Jaber, posted bail in 2004 for Abdelhaleem Hasan Al-Ashqar, who, as described in detail below, is a close associate of Hamas leader Mousa Abu Marzook. The IAP also led a campaign in favor of defendant Muhammed Salah, the admitted head of the Hamas military structure prior to 1993. In fact, after he was released from an Israeli prison after being convicted for terrorist activities on behalf of Hamas, Salah was allowed to raise funds at an IAP convention. (Anonymous (Rita Katz), "Terrorist Hunter," p. 140 (2003))

**C. Holy Land Foundation for Relief and Development.**

There is also very clear evidence that the Holy Land Foundation for Relief and Development is a well-organized and prominent supporter of Hamas, and that its funding of Hamas "charities" was a critical element of support for Hamas terrorism.

As explained above, the Muslim Brotherhood and later, Hamas, had at their core, the organization of a social infrastructure. That social infrastructure has included educational



institutions ranging from kindergartens to universities, health care facilities, sports clubs and soup kitchens. The social infrastructure is directed by the same leadership as the political branch, which also commands the terrorist wing of Hamas. (Mishal interview (Part 3 of 7)) The actual financing of the social infrastructure of Hamas is often channeled through *Zakats*, or alms societies, that are present in numerous towns and villages in Gaza and the West Bank. (See, AR 1341, 1344, 1346)

The charities supported by HLF are almost uniformly controlled by Hamas. At a September 1993 meeting of U.S.-based Hamas leaders in Philadelphia (discussed further below), Muin Kamel Mohammed Shabib, an admitted Hamas leader, specified the following as “our institutions:”

1. Islamic Charity Association (a/k/a Islamic Charitable Society in Hebron);
2. Charity Committee in Ramallah;
3. Jenin Zakat Committee;
4. Nablus Zakat Committee;
5. Tulkarm Zakat Committee;
6. Orphan Care Association, Bethlehem;
7. Qalqiliyah Zakat Committee;
8. Halhul Zakat Committee; and
9. Hebron Zakat Committee. (AR 1435-36)

HLF President Shukri Abu Baker attended the Philadelphia meetings. (Abu Baker Dep., p. 8) Mr. Abu Baker admitted that HLF subsequently provided funds to each of these entities. (*Id.*, pp. 169-179) This is confirmed by HLF’s public disclosure of the organizations that it supports with its “charitable giving.” (See, Abu Baker Dep., Ex. 24) I have also examined



records of HLF's expenditures found in the Administrative Record that is the basis of the Watson Report. These records further confirm that HLF provided financial support to the very same organizations that Shabib had identified in 1993 as being Hamas institutions.

These institutions continue to be controlled by Hamas to this day. A Hamas website published in Yemen lists each of these organizations as part of Hamas. (See List of Hamas Institutions from Yemen Website (<http://www.aqsaorg.com/profile/cmt.php> as of January 9, 2004) The role of HLF in funding "Jihad with money" is made explicit in the appeals for funds published by IAP as described above.

HLF's role in supporting the families of "Martyrs" is also a critical element in supporting terrorism.<sup>1</sup> One of the *quid-pro-quo*s for performing a suicide bombing or otherwise taking the risk of becoming active in Hamas' terrorist structure is the promise that Hamas will take care of your family. Sheikh Ahmad Yassin, the founder of Hamas, has stated that Hamas "distributes \$2 million to 3 million in monthly handouts to the relatives of Palestinian suicide bombers; 'martyrs' who have been killed by Israelis; and prisoners in Israeli Jails." (AR 725-28) The participants at the 1993 Philadelphia meeting stressed the necessity of spending funds on the injured, the martyrs and the prisoners' families. (AR 1462)

HLF provides annuities and support for the families of Hamas activists who died carrying out attacks on Israelis, or who were imprisoned or deported for their Hamas activities. In 1992 OLF/HLF created sponsorship forms for "needy families." A space on the form for social worker comments indicates in nearly every case that the applicant's provider was either jailed for reasons of "security" or martyred. (AR 1536-1790) A letter dated August 13, 1992, from HLF Executive Director Haitham Maghawri to "Brother Majed" states: "Dear brother, please

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<sup>1</sup> In Palestinian and Islamic culture, a "martyr" (*shaheed*) is anyone who dies in battle for Allah. In the Palestinian case, the term took on a wider use during the intifada to include everyone killed in any form of struggle.

nominate a few names of the Martyr's children with a summary on each child's [sic] situation, and how cooperative they are." (Abu Baker Dep. Ex. 23; Exhibit M) An undated letter on HLF stationery from HLF employee Ibrahim Khalil states: "We asked you for 40 applications forms for needy families from several regions to be sent ASAP, families of the martyrs, if possible would be good." (Exhibit P)

An HLF binder entitled "Orphans Sponsorship Program, Gaza in July 1999" shows photographs of sponsored orphans and the cause of the father's death, specifically distinguishing between "killing," "martyr," "sickness," and other causes of death. (Abu Baker Dep., Ex. 30) One of the orphans sponsored through this program was the son of Yahya Ayyash, a Hamas bomb-maker known as "the Engineer." (See, Exhibit K; Mishal Interview (Part 4 of 7))

HLF's connection with the Hamas terrorist wing can be shown in other ways as well. HLF paid for trips to the United States by Hamas founder Sheikh Jamil Hamami and Hamas leader Dr. Mohammed Siyam. Both of these men have major roles in the political leadership of Hamas including the terrorist wing. (Mishal interview (Part 3 of 7); AR 635-38; Abu Baker Dep., p. 204) HLF also received substantial funding from Mousa Abu Marzook, a founder of Hamas who remains one of its leaders today. Marzook made these contributions at the same time that he was funding Muhammed Salah's distributions to terrorist operatives in the West Bank and Gaza in 1992-93. (AR 684-85, 700, 1926-27; Salah Bank Statements for 12/92-2/93) Mousa Abu Marzook gave the instruction in 1994 that HLF was to be the Hamas fundraising arm in the United States rather than the Al-Aqsa Educational Fund operated by Abdelhaleem Hasan Al-Ashqar. (AR 1478-79, 1482-86) As a person knowledgeable in the operations of Hamas, it is inconceivable to me, that Marzook was giving money to HLF for charitable purposes.

It is also clear that HLF leadership operated at a high level within Hamas. In September 1993, Israel and the Palestine Liberation Organization ("PLO") entered into an unprecedented agreement known as the Oslo Peace Accords, which were seen as an attempt to end the dispute between Israel and the Palestinians. The Oslo Accords caused great shock and consternation to Hamas, which was openly against any form of Palestinian reconciliation with Israel. A conference of Hamas activists was held in Philadelphia in October 1993 to develop a plan to promote Hamas and work against the Oslo Peace Accords. Among the participants were Hamas leaders from Gaza and the West Bank, including Muin Kamel Mohammed Shabib. HLF President Shukri Abu Baker was an active participant in the conference, as was Ismail Elbarasse, a close associate and financial secretary of Mousa Abu Marzook. (AR 225-65, 1400-11; In the Matter of the Extradition of Marzook, 924 F. Supp. 565, 592 (S.D.N.Y. 1996)) IAP leaders such as Omar Ahmad and Ghassan Dahduli were also in attendance, as was Abdelhaleem Hasan Al-Ashqar, head of the Al Aqsa Educational Foundation. (AR 251-65; 1400-11)

The meeting was under FBI wiretap surveillance and transcripts are in the Administrative Record. (AR 1397-1475) The tapes make clear the very close ties that exist between the political and social infrastructure elements of Hamas. (*Id.*) They also demonstrate that support of the social infrastructure was deemed critical to the overall success of Hamas in defeating the Oslo Accords. (AR 1420-25) Significantly, the fact that this meeting was held in the United States, and included the presence of a large number of U.S. based Hamas activists demonstrated that the true center of Hamas' leadership was in the United States at that time.

Perhaps one of the most blatant examples of HLF's support for Hamas terrorism took place in the winter of 1992-93. In December 1992, after a series of Hamas terrorist attacks, Israel deported approximately 400 Hamas activists to South Lebanon. The Hamas website calls

these deportees, "activists of our people." (AR 1798) Among the deportees was Hamas co-founder, and later leader, Abdul Azzis Rantisi. Senior Hamas leaders Hamami, Siyam and Al-Ashqar confirmed during their 1994 Oxford, Mississippi meeting that "the movement" supported the deportees. (AR 1981-83) HLF spent at least \$277,000 from December 1992 to May 1993 to aid the deportees and their families directly. (AR 1796-1800)

The Lebanon deportees were the core group of Hamas leaders prior to their deportation. Their displacement from Gaza and the West Bank brought about Marzook's enlistment of Salah to travel to the area to distribute funds to renew and sustain the organization. HLF's support of the deportees was a clear affirmation of support for Hamas at a time that the organization was in disarray.

**D. David Boim's Murderers, Hinawi and Al-Sharif, Were Members of Hamas; Hamas Takes Credit for the Murder.**

According to an official detailed police report, the attack on David Boim and his classmates on May 13, 1996, was carried out by shooting from a stolen Mitsubishi car at a bus stop opposite the entrance to Beit El. The attackers first shot at a bus traveling south on the road from Nablus to Ramallah. They then proceeded north on the road to the bus stop and shot at students standing there, including David Boim, who was fatally wounded. The Mitsubishi continued to travel north but crashed off the side of the road. Shell casings found in the car matched the weapon used in the murder of David Boim. (Report of May 13, 1996 Terrorist Attack and Murder Compiled by Israel Police, Benjamin Region)

Amjad Hinawi was tried by the Palestinian Authority for the murder of David Boim. Mr. Abdelnour Zaibek, a U.S. foreign service officer assigned to the consulate in Jerusalem, attended Amjad Hinawi's trial in Jericho during February 1998. On March 3, 1998, Mr. Zaibek produced a "summary of the trial proceedings." The report, concluded that 1) the proceedings

were held openly in the Security Court of the Palestinian Authority; 2) Hinawi was afforded counsel; and, 3) Hinawi was accused of two crimes, participating in a terrorist act and acting as an accomplice in the killing of David Boim. Hinawi did not deny that he participated in the murder. Hinawi claimed at trial that his friend Khalil was the gunman who exploited their friendship in asking Hinawi to drive the car. Hinawi was convicted of both counts, including the murder of David Boim, and was sentenced to 10 years at hard labor. (State Department Report on Hinawi Trial) On February 14, 1998, the Palestinian Authority National Security Court sitting in Jericho handed down the ten-year sentence on Amjad Hinawi. (Official Sentencing of Hinawi) The sentence is as described by the United States Counsel General.

Amjad Hinawi's whereabouts are currently unknown. On September 22, 1997, pursuant to the Oslo II interim agreement, Israel asked the Palestinian Authority to transfer to it a number of individuals who were known to have been involved in terrorist activities. Among them was Hinawi. The requests states:

Amjad Muhammad Hinawi – member of Hamas who took part in the murder of 16-year old David Boim, an American-Israeli citizen, in Beit El in May 1996. The PA detained Hinawi but subsequently released him in February 1997 on holiday leave for the Id al-Fitr festival.

(Israel Ministry of Foreign Affairs Request for Handover of Suspects)

On October 22, 1998, Israel's Ministry of Foreign Affairs issued a Background Paper identifying "Palestinian suspects wanted by Israel for terrorism and other crimes." The Paper states:

"Amjad Muhammad Hinawi – member of Hamas who took part in the murder of 16-year old David Boim, an American-Israeli citizen, in Beit El in May 13, 1996. The PA detained Hinawi but subsequently released him in February 1997 on holiday leave for the Id al-Fitr festival."

(Israel Foreign Affairs Background Paper)

Khalil Ibrahim Tawfiq Al-Sharif was never captured by the Palestinian Authority. After murdering David Boim, Al-Sharif undertook additional terrorist activities. Ultimately, he blew himself up as a suicide bomber in Jerusalem in September 1997, taking with him five civilians and injuring over 100 others. (See, e.g., Exhibit 19; “3<sup>rd</sup> Ben-Yeyuda Bomber Identified,” Jerusalem Post, October 30, 1997) There is evidence from numerous sources beyond Hinawi’s statement in court, that Al-Sharif murdered David Boim and that he was a member of Hamas. The Palestinian Authority has published on its website an official list of Hamas and Palestinian Islamic Jihad members whose bodies Israel refuses to return to their families. Khalil Al-Sharif’s name appears on that list and he is identified as a member of Hamas. The statement as translated from Arabic states:

“19. the martyr Khalil Ibrahim Al-Sharif from Nablus. Killed in a martyrdom operation in Ben Yehuda Street on September 4, 1997 (Hamas).”

(Palestinian Authority Publication)

The website of the Islamic group at Al-Najah University publishes biographies of “martyrs.” Included in that list is Khalil Al-Sharif. Al-Sharif is identified as the murderer of David Boim and a member of Hamas:

“He (Sharif) took part in several Jihad operations: Beit El in May, 1996; one person was killed and others were wounded.”

Al-Sharif is also given credit for four additional terrorist operations including his final activity as the suicide bomber in Ben Yehuda Street in Jerusalem in July 1997. Al-Sharif is identified as having “turned into the Islamic doctrines” -- a description of Hamas affiliation -- “after 1994.”

(Islamic block of Hamas at Al-Najah University, Nablus)

Hamas has made it very clear that it takes credit for the attack on David Boim. (Hamas Tribute to Mahmoud Abu Hanoud) On November 23, 2001, Israeli security forces killed

Mahmoud Abu Hanoud in an operation near Nablus. At the time of his death, Hanoud was the senior commander of the Hamas Izz Al-Din Al-Qassam Brigades. (See, Exhibit I; Statement by Israel Ministry of Foreign Affairs, 24 November 2001) Hamas websites paid tribute to Hanoud. Two current websites list terrorist operations in which Hanoud had a role, including the murder of David Boim:

1. The first website states under the heading "Record of Honor," "In May 1996 (Hanoud) led a group that shot at a convoy of settlers near Bet El, [which] resulted in the killing of one Zionist and injuring three others." This is undoubtedly a reference to the operation that killed David Boim.
2. The second website states: "Among the operation[s], whose responsibility is related to the squad of Abu Hanoud. . . . May 1996: shooting at a convoy of settlers near Bet El settlement, [which] resulted in killing one settler and injuring 3 others."

Again, this is clearly a reference the May 13, 1996 Hamas operation in Beit El that resulted in the murder of David Boim.

From this evidence, I have concluded that Amjad Hinawi and Khalil Ibrahim Tawfiq Al-Sharif murdered David Boim as part of a Hamas terrorist operation.

**E. Translations of Arabic Documents, Video Tapes and Video Tape Segments.**

Based upon my knowledge of written and spoken Arabic, I have translated or reviewed translations of the following Arabic documents, video tapes and video tape segments:

1. Attached as Exhibit A is a true and correct translation of portions of a speech made by Abdullah Azzam, a radical Muslim cleric, at a joint IAP/MAYA conference in Oklahoma City in 1988. (BO 002677)
2. Attached as Exhibit B is a true and correct translation of relevant portions of the 1989 IAP convention (Program No. 4) in Kansas City. (BO 002676)
3. Attached as Exhibit C is a true and correct translation of portions of a speech made by Yusef Qaradawi, a radical Muslim cleric, at the 1989 IAP convention (Program No. 4).



4. Attached as Exhibit D is a true and correct translation of portions of a chant led by Sheikh Muharram Al-Aarifi at the 1989 IAP convention (Program No. 2). (BO 002679)
5. Attached as Exhibit E is a true and correct translation of the final three parts of an interview of Hamas leader Khalid Mishal by *Al Hayat*, an Arabic publication.
6. Attached as Exhibit F is a true and correct translation of Muhammad Salah's handwritten confession to Israeli authorities. (Salah Dep. Ex. 18)
7. Attached as Exhibit G is a true and correct translation of a Hamas communiqué, published by IAP in *Ila Filistin* in December 1989. (AR 1531)
8. Attached as Exhibit H is a true and correct translation of a Hamas communiqué, distributed by IAP in May 1989. (AR 1504-05)
9. Attached as Exhibit I is a true and correct translation of two Hamas documents published by *Ila Filistin* in December 1988/January 1989. (AR 1506-11)
10. Attached as Exhibit J is a true and correct translation of a letter to the editor of *Ila Filistin*, from Hamas, published in *Ila Filistin* in February 1989.
11. Attached as Exhibit K is a copy of an HLF form used to solicit donations for orphans, including orphans of martyrs. This particular form solicits donations for Bara Yahya Abdallatif Ayash, the son of Hamas bomb maker Yahya Ayash. (BO 001655)
12. Attached as Exhibit L is a copy of a Muslim Youth Society/Hebron form indicating the recipients of money received from HLF. All recipients are identified as being the families of *shuhada* (martyrs). The Muslim Youth Society/Hebron is renowned for having developed numerous suicide bombers for Hamas. (Abu Baker Dep., Ex. 22)



13. Attached as Exhibit M is a true and correct translation of a letter from HLF Executive Director Haitham Magawri asking for the names of children of *shuhada* (martyrs) to serve as HLF donees. (Abu Baker Dep., Ex. 23)

14. Attached as Exhibit N is a true and correct translation of a list of entities to which HLF admitted providing funds in its "Programs & Objectives" booklet. (Abu Baker Dep., Ex. 24) The list includes several entities affiliated with Hamas.

15. Attached as Exhibit O is a true and correct translation of an excerpt from the February 1990 edition of *Ila Filistin*, p. 71, which discusses activities organized by IAP in connection with the second anniversary of the intifada, including raising funds for the Occupied Land Fund. (BO 005003)

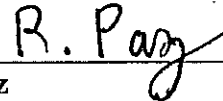
16. Attached as Exhibit P is a true and correct translation of a handwritten letter from Ibrahim Khalil of HLF requesting application forms for families of martyrs. (AR 1792)

17. Attached as Exhibit Q is a true and correct translation of a statement by Hamas from a Yemen-based website of Hamas affiliated organizations <http://www.aqsaorg.com/profile/cmt.php>.

18. Attached as Exhibit R is a true and correct translation of a portion of a statement from a website of the Islamic block of Hamas at Al-Najah University entitled "Nablus Tribute to Al-Sharif" <http://www.khayma.com/-Islamicblock/index/j5.htm>.

19. Attached as Exhibit S is a true and correct translation of a portion of a statement entitled "Hamas Tribute to Mahmoud Abu Hanoud," <http://www.palestine-inf.info/arabic/hamas/shuhda/abohanod/life.htm>.

20. Attached as Exhibit T is a true and correct translation of a portion of a statement entitled "Record of Honor" to Mahmoud Abu Hanoud, <http://www.alwelayah.net/shuhda/sierah/polistain/14.htm>.



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**EXHIBIT 163 to Declaration of Joel Israel**

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## Selected Recipients of HLFRD Funds: Jan. 1997 - Sept. 2000

Organization	1997	1998	1999	2000
HLFRD, Hebron	0	0	422,791	1001
Sanabil Association for Relief and Development	125,744	232,110	649,386	456,
Human Appeal International	31,475	106,286	281,608	258
HLFRD, Gaza	231,434	76,697	217,495	65,
Dar el Salam Hospital	104,600	128,850	37,222	31
Islamic Charity Society (ICS)	138,302	690,297	275,313	
Hebron Zakat Committee	20,090	12,799	21,279	
Orphan Care Association (Bethlehem)	0	0	38,435	
Ramallah Zakat Committee	89,229	72,652	58,522	
Jenin Zakat Committee	42,849	89,779	40,394	
Qalqilia Zakat Committee	65,577	29,827	40,441	
Nablus Zakat Committee	43,951	31,008	46,482	
Tulkarem Zakat Committee	23,820	18,312	30,079	
Halhul Zakat Committee	31,652	22,173	29,643	
Funds transferred from January 2000 - September 2000				
This column represents funds transferred from January 1997 - April 1999; out exact dates unreadable				

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